

George Stuart Robertson

The Law of Copyright

Supplement to Dec.31,1915

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THE LAW OF COPYRIGHT

BY

GEORGE STUART ROBERTSON

CHIEF REGISTRAR OF FRIENDLY SOCIETIES, ETC.

SUPPLEMENT

To December 31, 1915

Price Five Shillings net

OXFORD
AT THE CLARENDON PRESS

THE
LAW OF COPYRIGHT

BY

GEORGE STUART ROBERTSON

CHIEF REGISTRAR OF FRIENDLY SOCIETIES, ETC.

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SUPPLEMENT

TO 'THE LAW OF COPYRIGHT'

SUPPLEMENT TO THE TEXT

PAGE 5, LINE 9, *add* : a card-index system for the purposes of the National Insurance Acts, consisting of a box containing cards of different colours and with different headings (*Libraco, Ltd. v. Shaw Walker, Ltd.* (1913), 30 T.L.R. 22); a system of 'standardized tabular advertising' (*Moore v. Associated Newspapers, Ltd.* (1915), *Times*, June 18).

PAGE 6, LINE 7. For a discussion whether a periodical recension was a new edition, see *H. Blacklock & Co., Ltd. v. C. Arthur Pearson, Ltd.*, [1915] 2 Ch. 376.

PAGE 9, LINE 16. In *Incorporated Council of Law Reporting for England and Wales v. William Green & Sons*, [1912] W.N. 243, the plaintiffs moved for an injunction to restrain the defendants from infringing their copyright in the *Law Reports*. The defendants consented to give a perpetual undertaking in the terms of the motion and to pay the costs.

PAGE 11, NOTE l. On the other hand the view stated in the text is supported by *Broemel v. Meyer* (1913), 29 T.L.R. 148 (*Where there's a will there's a way*). See also *W. Stevens, Ltd. v. Cassell & Co., Ltd.* (1913), *Times*, Feb. 7 (*Magazine of Fiction*).

PAGE 13, LINE 15, *add* : the index to *Bradshaw's Railway Guide for Great Britain and Ireland* (*H. Blacklock & Co., Ltd. v. C. Arthur Pearson, Ltd.*, [1915] 2 Ch. 376).

PAGE 14, LINE 7. In *Byrne v. Statist Co.*, [1914] 1 K.B. 622 it was held that a summarized and edited translation of a speech reported in a foreign language was an 'original

literary work ', of which the translator was the author and the owner of the copyright.

PAGE 15, LINE 16. See now *Barker Motion Photography, Ltd. v. E. Hulton & Co., Ltd.* (1912), 28 T.L.R. 496.

PAGE 26, LINE 4. The rules are printed in the Supplement, p. 30.

PAGE 29, NOTE (h). *Byrne v. Statist Co.*, [1914] 1 K.B. 623 supports the view expressed in the text. A summarized and edited translation was there held to be an 'original literary work'.

PAGE 33, NOTE (t). So *Glyn v. Western Feature Film Co.*, [1916] W.N. 5.

PAGE 38, NOTE (l). See also *Francis, Day & Hunter v. Feldman & Co.*, [1914] 2 Ch. 728, the facts of which are set out in the next paragraph.

PAGE 39, LINE 17. A song composed in America by an American was published in New York on May 5, 1913. On the same day an English firm of publishers, who had received twelve copies from the American owners of the copyright, sent one copy to the British Museum, filed one copy at their office, and exposed six copies for sale on their counter in London. On May 6 they sent the other four copies to the agents for the Universities. After a fortnight they placed the six copies among their general stock. It was held that there had been a proper publication in London on May 5 and an issue of copies to the public (*Francis, Day & Hunter v. Feldman & Co.*, [1914] 2 Ch. 728).

PAGE 47, LINE 13. The regulations are printed in the Supplement, p. 21.

PAGE 51, LINE 22. Where an artistic work had been assigned with all copyrights but not registered under the Fine Arts Copyright Act, 1862, at the time of the commencement of the Copyright Act, 1911, it was held that the owner had such a copyright as would entitle him to the substituted rights given by the Act of 1911 (*E. W. Savory, Ltd. v. The World of Golf, Ltd.*, [1914] 2 Ch. 566). See also *Barker Motion Photography, Ltd. v. E. Hulton & Co., Ltd.* (1912), 28 T.L.R. 496.

PAGE 53, LINE 15. The regulations are printed in the Supplement, p. 21.

PAGE 62, LINE 8. See regulations (2), (3), (4), and (5) in the Supplement, pp. 24-27.

PAGE 62, LINE 26. This provision does not justify the making of a copy of the work for the purpose of subsequent mechanical reproduction, if the copyright is vested in an assignee (*Chappell & Co., Ltd. v. Columbia Graphophone Co.*, [1914] 2 Ch. 745).

PAGE 63, LINE 4. Where a plaintiff in the early part of 1911 composed and published an original musical work, and before the commencement of the Copyright Act, 1911, the defendants manufactured abroad and imported into England gramophone records of the work, and after the commencement of the Act sold them without the plaintiff's consent and without payment of royalties, it was held that they had infringed his copyright (*Monckton v. Pathé Frères Pathephone, Ltd.*, [1914] 1 K.B. 395).

PAGE 66, LINE 14. A prosecution for selling and distributing infringing copies of ordnance maps will be found in *The Times*, October 24, 1913, p. 4, col. 6.

PAGE 66, LINE 16. A new Minute which was issued by the Treasury on June 28, 1912, is printed in the Supplement, p. 69.

PAGE 80, LINE 19. For a case where a work was made by a person under a contract of service but was not made in the course of his employment and he was therefore held to be the owner of the copyright, see *Byrne v. Statist Co.*, [1914] 1 K.B. 622.

PAGE 83, LINE 2. A director of a company that published a weekly periodical, who was also 'dress editress', has been held to be a 'clerk or servant' of the company within s. 209 (1) (b) of the Companies (Consolidation) Act, 1908, but not persons who supplied for a fixed salary 'fashion drawings' and weekly articles respectively (*In re Beeton & Co., Ltd.*, [1913] 2 Ch. 279).

PAGE 85, LINE 9. It has now been held that a curate is not under a contract of service with his incumbent or his

bishop (*In re National Insurance Act, 1911, In re Employment of Church of England Curates*, [1912] 2 Ch. 563); neither are ministers of the United Methodist Church or ministers under probation of the Wesleyan Methodist Church appointed by the Conference of their Church employed under a contract of service (*In re Employment of Ministers of the United Methodist Church*, [1912] W.N. 206).

PAGE 86, NOTE (k), *add*: and in *Chantrey, Chantrey & Co. v. T. H. Dey* (1912), 28 T.L.R. 499.

PAGE 95, LINE 3. The view expressed in the text is now supported by *E. W. Savory, Ltd. v. The World of Golf, Ltd.*, [1914] 2 Ch. 566. There the only memorandum of an assignment of copyright was a receipt for £2 6s. 6d. for 'Five original art designs inclusive of all copyrights. Subjects: 4 golfing subjects, 1 Teddy Bear painting', which was signed by the artist, duly stamped and handed to the plaintiffs. Parol evidence was admitted to identify the golfing subjects with those in question in the action, and it was held that the memorandum was sufficient within s. 3 of the Fine Arts Copyright Act, 1862.

PAGE 101, LINE 10. The making of a single copy without authority is an infringement of copyright (*Chappell & Co., Ltd. v. Columbia Graphophone Co.*, [1914] 2 Ch. 745).

PAGE 109, LINE 24. The making of a single copy of a song with pianoforte accompaniment without authority, for whatever purpose, is an infringement of the copyright (*Chappell & Co., Ltd. v. Columbia Graphophone Co.*, [1914] 2 Ch. 745).

PAGE 112, NOTE (q). In *Francis, Day & Hunter v. Feldman & Co.*, [1914] 2 Ch. 728, it was held that the copyright in the song, 'You made me love you (I didn't want to do it)', was not infringed by the 'reply song', 'You didn't want to do it—but you did.' Compare *Glyn v. Western Feature Film Co.*, [1916] W.N. 5.

PAGE 118, NOTE (x), *add*: and *Glyn v. Western Feature Film Co.*, [1916] W.N. 5.

PAGE 122, LINE 9. In *Fenning Film Service, Ltd. v. Wolverhampton, Walsall & District Cinemas, Ltd.*, [1914] 3 K.B. 1171, the plaintiffs had agreed to let a certain cinematograph film to the defendants for a certain period and for exhibition at certain places, and the defendants agreed not to exhibit it or suffer it to be exhibited elsewhere. They in fact broke their contract in this respect, and also advertised their intention of exhibiting it elsewhere. It was held that they were liable, in addition to damages for breach of contract, to damages for infringement of copyright, on the ground that by their advertisements they had authorized the performance of the work.

PAGE 125, NOTE (d). *Rees v. Robbins* (1914), *Times*, February 6, July 4, was a similar case. Both the melodramas in that case were held to have been written independently, though the defendant had seen the plaintiff's play. In *Peskin v. Ray Brothers* (1915), *Times*, Nov. 19, 20, a revue *Splash Me* and alleged infringing revues *Have a Dip* and *Some Splash* were held to come for the most part from the 'common stock', but an injunction was granted in respect of one scene.

PAGE 129, NOTE (r). In *Corelli v. Gray* (1913), 30 T.L.R. 116, it was held that the copyright in a novel was infringed by a dramatic sketch which contained a series of stock incidents in combination taken from the novel, even though no sentence in the sketch was similar to any sentence in the novel.

PAGE 132, LINE 8. See regulations (2), (3), (4), and (5) in the Supplement, pp. 24-27.

PAGE 132, LINE 11. See regulations (6), (7), (8) in the Supplement, pp. 27, 28.

PAGE 132, LINE 11. The fact that due notice has been given and royalties paid to the author does not, however, justify the infringement of an assignee's copyright by the making of a copy of the assigned work for the purpose of subsequent mechanical reproduction (*Chappell & Co., Ltd. v. Columbia Graphophone Co.*, [1914] 2 Ch. 745).

PAGE 143, LINE 10. It has been held that, in order to sue for an infringement which occurred before the commencement of the Copyright Act, 1911, there must have been registration, although registration is not required by that Act as a condition precedent to action (*Evans v. Morris*, [1913] W.N. 58). So *Barker Motion Photography, Ltd. v. E. Hulton & Co., Ltd.* (1912), 28 T.L.R. 496.

PAGE 145, LINE 25. It was held, however, in *Rubens v. Pathé Frères Pathephone, Ltd.* (1912), *Times*, December 20, that, in an action for the infringement of copyright in a song, the author of the music could sue alone for infringement of copyright in the music.

PAGE 146, LINE 12. In Scotland, where the trustees and executors of a deceased person had assigned certain of his copyrights before they had obtained confirmation, it was held that the assignee could sue for infringement, but that confirmation would have to be expedited by the trustees before he could extract a decree for payment (*Mackay v. Mackay*, 1914, S.C. 200).

PAGE 148, LINE 22. The section provides no protection to a person who, fearing or suspecting that copyright exists, makes a mistake as to the owner of the copyright, and under that mistake obtains authority to publish from a person who is not in fact the owner (*Byrne v. Statist Co.*, [1914] 1 K.B. 622).

PAGE 149, LINE 5. In *E. W. Savory, Ltd. v. The World of Golf, Ltd.*, [1914] 2 Ch. 566, the infringement was innocent up to a certain point of time, but the Court held that the defendants did not do all that they ought to have done after discovering the infringement, and ordered the infringing copies to be delivered up.

PAGE 151, LINE 5. A plaintiff whose copyright is infringed has a right to an order restraining the infringement, and is not prevented from exercising his rights by an offer of the infringer before action that he will promise not to infringe again, and will pay agreed damages. If such an offer is repeated after writ issued, with the addition of an offer to submit to an order and pay costs to date, the

plaintiff may be deprived of any subsequent costs (*E. W. Savory, Ltd. v. The World of Golf, Ltd.*, [1914] 2 Ch. 566). Apparently, in the case of an infringement of copyright, as in that of a design, trade mark, or patent, although the defendant has consented to the order claimed, the plaintiff is entitled to the costs of moving in open court and not merely to the costs which would have been incurred on a summons in chambers, since it is desirable that some publicity should be given to the order (*J. T. Smith & J. E. Jones, Ltd. v. Service, Reeve & Co.*, [1914] 2 Ch. 576).

PAGE 155, LINE 2. The regulations are printed in the Supplement, p. 31.

PAGE 155, LINES 19, 22. For a conviction for these offences, see *The Times*, October 24, 1913, p. 4, col. 6.

PAGE 155, LINE 26. For a conviction for this offence, see *The Times*, November 27, 1913, p. 4, col. 2.

PAGE 157, LINE 11. There was a conviction for this offence on November 26, 1913 (see *The Times*, November 27, 1913, p. 4, col. 2).

PAGE 173, LINE 2. In *Ridge v. English Illustrated Magazine, Ltd.* (1913), 29 T.L.R. 592, the defendants published under the plaintiff's name a story not by him, which he alleged to be of inferior quality and detrimental to his reputation. The jury were directed that, if they came to the conclusion that a reader would think the plaintiff a mere commonplace scribbler, they could give him damages for libel, and that, on the claim for passing-off, if they thought that the facts were proved and that damage must certainly ensue, though it was not capable of present proof, they could find for the plaintiff with damages. They did so.

PAGE 173, LINE 10, *add*: and a cinematograph play (*Menchen v. Elite Sales Agency, Ltd.* (1912), *Times*, December 18, not decided), a magazine (*W. Stevens, Ltd. v. Cassell & Co., Ltd.* (1913), *Times*, February 7, unsuccessful), and a revue (*Peskin v. Ray Brothers* (1915), *Times*, November 19, 20, unsuccessful).

PAGE 175, LINE 18. Certain exceptions as to trade literature have now been made to this provision by the Copyright (British Museum) Act, 1915, and the British Museum (Delivery of Books) Regulation, 1915, printed in the Supplement, pp. 20 and 36 respectively.

PAGE 177, LINE 2. The regulations are printed in the Supplement, p. 29.

PAGE 183, LINE 12. An Order in Council extending the Act to Cyprus and certain British Protectorates is printed in the Supplement, p. 37.

PAGE 186, LINE 8. A new Order in Council relating to Austria-Hungary is printed in the Supplement, p. 61.

PAGE 187, LINE 13. The Orders in Council made under this power are printed in the Supplement, pp. 38 *et seq.*

PAGE 189, NOTE (x), LINE 11. In *Cranz & Co. v. Sheard & Co.* (1913), *Le Droit d'Auteur*, 1914, p. 69, an action in the High Court before Scrutton J., the defendants had printed 600 separate copies of the waltz 'Du und Du' from Johann Strauss's *Die Fledermaus*, and 100 copies of it as part of an album of dance music, before there was a copyright treaty between this country and Austria-Hungary. After the treaty was made, they published 500 copies of the waltz, and the action was brought by the holders of the copyright. The defendants sought to argue that they had a subsisting and valuable interest in the work. It appeared that they had less than a hundred copies left in stock at the date of the Order in Council bringing into force the copyright treaty with Austria-Hungary. It was held that they had a subsisting interest, but that the interest was of no value, and an injunction was granted against them with £5 damages.

PAGE 207, LINE 23. The regulations are printed in the Supplement, p. 21.

PAGE 213, LINE 34. The regulations are printed in the Supplement, p. 31.

PAGE 214, LINE 10. This sub-section has been amended by the Copyright (British Museum) Act, 1915, and the

British Museum (Delivery of Books) Regulation, 1915, made thereunder, which are printed in the Supplement, pp. 20 and 36 respectively.

PAGE 215, LINE 4. The Regulations are printed in the Supplement, p. 29.

PAGE 219, LINE 28. The Regulations are printed in the Supplement, p. 24.

PAGE 222, LINE 7. The Rules are printed in the Supplement, p. 30.

PAGE 226, LINE 36. The Order in Council extending the Act to Cyprus and certain British Protectorates is printed in the Supplement, p. 37.

PAGE 228, LINE 24. The Orders in Council made under this section are printed in the Supplement, pp. 38 *et seq.*

PAGE 236, *add* to Appendix I the additional documents, printed in the Supplement, pp. 20 *et seq.*

PAGE 256, *add* the Additional Protocol to the Berne Convention, printed in the Supplement, p. 72.

PAGE 284, *substitute* for the contents of this page the following :

COUNTRIES WHICH HAVE RATIFIED THE BERLIN CONVENTION, 1908.

I. Belgium, Germany, Hayti, Liberia, Luxemburg, Monaco, Portugal, Spain, and Switzerland have ratified without reservation.

II. Denmark, France, Great Britain, Italy, Japan, the Netherlands, Norway, and Tunis have ratified with certain reservations.

(i) Denmark, as regards articles in newspapers and magazines, preserves the provisions of Article 7 of the Berne Convention, 1886, as amended by the Additional Act of Paris, 1896.

(ii) France and Tunis, as regards works of applied art, preserve the provisions of the Berne Convention,

1886, and the Additional Act of Paris and the Interpretative Declaration of Paris, 1896.

(iii) Great Britain, as regards retroactivity, preserves Article 14 of the Berne Convention, 1886, and paragraph 4 of the Closing Protocol, as amended by the Additional Act of Paris, 1896 (see note on p. 17 as to Canada and South Africa).

(iv) Italy (*a*) as regards the exclusive right of translation, preserves Article 5 of the Berne Convention, 1886, as amended by the Additional Act of Paris, 1896; (*b*) as regards the right of public representation of translations of dramatic and dramatico-musical works, preserves Article 9, paragraph 2 of the Berne Convention, 1886.

(v) Japan, (*a*) as regards the exclusive right of translation, preserves Article 5 of the Berne Convention, 1886, as amended by the Additional Act of Paris, 1896; (*b*) as regards the public performance of musical works, preserves Article 9, paragraph 3 of the Berne Convention, 1886.

(vi) Norway, (*a*) as regards works of architecture, preserves Article 4 of the Berne Convention, 1886; (*b*) as regards articles in newspapers and magazines, preserves Article 7 of the Berne Convention, 1886; (*c*) as regards retroactivity, preserves Article 14 of the Berne Convention, 1886.

(vii) The Netherlands, (*a*) as regards the exclusive right of translation, preserves Article 5 of the Berne Convention, 1886, as amended by the Additional Act of Paris, 1896; (*b*) as regards articles in newspapers and magazines, preserves Article 7 of the Berne Convention, 1886, as amended by the Additional Act of Paris, 1896; (*c*) as regards the right of public representation of translations of dramatic and dramatico-musical works, preserves Article 9, paragraph 2, of the Berne Convention, 1886.

COUNTRIES WHICH HAVE RATIFIED THE
ADDITIONAL PROTOCOL, 1914, TO THE
BERLIN CONVENTION, 1908

This, which is printed in the Supplement, p.72, has been ratified by Denmark, Great Britain, Japan, Luxemburg, Monaco, The Netherlands (after the due date), Spain (after the due date), and Switzerland.

NOTE :—Until ratification of the Berlin Convention, 1908, Sweden continues subject to the Berne Convention, 1886, and the Interpretative Declaration of Paris, 1896. It is understood that the necessary legislation cannot be submitted to the Swedish Diet till 1916. The Dominion of Canada and the Union of South Africa continue subject to the Berne Convention, 1886, and the Additional Act of Paris, 1896, until Great Britain has acceded on their behalf to the Berlin Convention, 1908.

NOTE AS TO THE EFFECT OF THE WAR ON INTERNATIONAL COPYRIGHT

It seems clear that, so far as the International Copyright arrangements are embodied in the law of this country, they remain in force unless and until they are altered by new legislation and subject to any suspension of rights imposed by the legislation relating to trading with the enemy or at common law. Neither probably are the International Conventions themselves, which, it must be remembered, apply to neutral as well as to belligerent powers, abrogated by the state of war. Several of the belligerent parties thereto have, in fact, proceeded with legislation and other arrangements for the carrying out of the Conventions since the outbreak of war, and thereby admitted their continual existence. There was a very interesting decision of the Imperial Court of Germany on October 26, 1914, in a cognate matter, namely the matter of the Convention of Paris, 1883, for the protection of industrial property. The claim in this case was made in respect of a French patent. The judgment declares that, inasmuch as the German Empire has acceded to the Convention and brought it into force by domestic legislation, the Convention has become part of the German law with regard to industrial property. It continues: 'It may be that the binding force of the Convention terminated, *ipso facto*, at the outbreak of war, as regards countries at war with Germany, but it does not follow from this that the provisions of the Convention, in so far as it forms part of our civil law, ceases to have effect as regards alien enemies. There is not necessarily an absolute correlation between the obligatory force of the Convention in international law and the application of the Convention in domestic law. Such a correlation only exists in the case of conventions, the application of which would contradict the object of the war. This cannot be the case, at least from the point of view of German law, when the question concerns a treaty which, like this Convention, is concerned

solely with matters of civil law. Contrary to the practice of certain other countries, German international law does not adopt the point of view that war ought to be waged in such a way as to injure as far as possible the economic interests of alien enemies and to deprive them to a large extent of the benefits of ordinary private law. It is, on the contrary, founded on the principle that war is only made on the enemy state and on its armed force, and that alien enemies ought to be assimilated to our own nationals as regards civil law to the same extent as before the war, that is to say *in every respect*, except so far as may be otherwise enacted by law. This principle, it need not be said, does not prevent a special law from prescribing a different treatment to alien enemies, especially by the application of the law of retaliation, as has often been the case in the course of the present war. But no such law has hitherto been enacted as regards industrial property. So long as that has not taken place, a German judge ought to apply the provisions of the Convention as he did before. For, even if it be admitted that the belligerent states cease to be mutually bound by the Convention in international law, they all have the power of completely maintaining the existing state of things and of applying the provisions of the Convention in their own territory. It could not be supposed that the legislative bodies of Germany have jointly agreed to abolish the application of the provisions of the Convention with regard to alien enemies, and that is even less the case inasmuch as grave doubts may be felt if and how far it is beneficial to suppress them. It might be asked, for example, if such abolition ought to extend to the persons mentioned in Article 3, and if and how far it ought to be retroactive. It would be a very serious thing to hand over this question and other difficult questions to the opinion of the judge instead of settling them by means of a law' (see *Le Droit d'Auteur*, 1915, p. 5). The statements in this judgment as to German practice in war may cause a smile, but its general principles appear to be sound.

SUPPLEMENT TO APPENDIX I
(STATUTES AND STATUTORY DOCUMENTS)

THE COPYRIGHT (BRITISH MUSEUM) ACT, 1915
(5 & 6 Geo. V, c. 38)

A.D. 1915. An Act to amend the Copyright Act, 1911, with respect
— to the delivery of books to the British Museum.
[19th May 1915.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Amend-
ment of
1 & 2
Geo. V,
c. 46,
s. 15 (1).

1. At the end of subsection (1) of section fifteen of the Copyright Act, 1911, which relates to the delivery of books to the British Museum, the following proviso shall be added :

‘ Provided that the Board of Trade may, on the application of the Trustees of the British Museum, make regulations excepting from the provisions of this subsection publications wholly or mainly in the nature of trade advertisements, or such classes of such publications as may be specified in the regulations, and thereupon it shall not be necessary for the publisher of any publication so excepted so to deliver the publication or for the trustees to give a receipt therefor, unless, as respects any particular publication, a written demand for the delivery thereof is made by the trustees. Every regulation under this proviso shall be laid before each House of Parliament as soon as may be after it is made, and if an address is presented to His Majesty by either House of Parliament within the next subsequent twenty-one days on which the House has sat, praying that any such regulation may be annulled, His

Majesty in Council may annul the regulation and it shall be thenceforth void, but without prejudice to the validity of anything previously done thereunder before the expiration of such period.'

[NOTE.—A regulation made under this section is printed in the Supplement, p 36.]

2. This Act may be cited as the Copyright (British Museum) Act, 1915, and the Copyright Act, 1911, and this Act may be cited together as the Copyright Acts, 1911 and 1915. Short title.

THE COPYRIGHT ROYALTY SYSTEM (GENERAL)
REGULATIONS, 1912. DATED JUNE 7, 1912

(Statutory Rules and Orders, 1912, No. 532)

THE Board of Trade, in pursuance of the powers conferred by Section 3 of the Copyright Act, 1911, hereby make the following regulations :

Preliminary.

1. These Regulations may be cited as the Copyright Royalty System (General) Regulations, 1912, and shall come into operation on the 1st day of July, 1912.

Notice.

2. The notice required by Section 3 of the Copyright Act, 1911, shall contain the following particulars :

- (a) The name and address of the person intending to reproduce the work ;
- (b) the name of the work which it is intended to reproduce and (if necessary) a description sufficient to identify it ;
- (c) the manner in which it is intended to reproduce the work (e.g. whether by printing, lithography, photography, &c.) ;
- (d) the price or prices at which it is intended to publish the work ;
- (e) the earliest date at which any of the copies will be delivered to a purchaser.

3. The notice shall, not less than one month before any copies of the work are delivered to a purchaser, be sent by registered post or published by advertisement as follows :

- (a) If the name and an address within the United Kingdom of the owner of the copyright, or his agent for the receipt of notice, are known or can with reasonable diligence be ascertained, the notice shall be sent to such owner or agent at such address ;
- (b) if such name and address are not known and cannot with reasonable diligence be ascertained the notice shall be advertised in the *London Gazette* ; the advertisement in the *London Gazette* shall give the particulars required by paragraphs (a) and (b) of Regulation 2, and shall also state an address from which a copy of the notice described in Regulation 2 may be obtained.

Payment of Royalties.

4.—(a) Unless otherwise agreed royalties shall be payable by means of adhesive labels purchased from the owner of the copyright and affixed to the copies of the work.

After the person reproducing the work has given the prescribed notice of his intention to reproduce the work the owner of the copyright shall by writing sent by registered post intimate to him some reasonably convenient place within the United Kingdom from which adhesive labels can be obtained and on demand in writing and tender of the price shall supply from such place adhesive labels of the required denominations at a price equal to the amount of royalty represented thereby.

Subject to these Regulations, no copy of the work shall be delivered to a purchaser until such label or labels denoting the amount of royalty have been affixed thereto.

(b) In cases when royalties are payable by means of adhesive labels if at any time labels of the required denomination are not available either because—

- (i) after the expiration of fourteen days from the date of the prescribed notice the owner of the copyright has not duly sent to the person reproducing the

work an intimation of some reasonably convenient place within the United Kingdom from which such labels can be obtained ; or

- (ii) the owner of the copyright refuses or neglects to supply such labels within fourteen days after demand duly made,

copies of the work may be delivered to purchasers without having labels affixed thereto ; and the amount of royalties shall be a debt due from the person reproducing the work to the owner of the copyright, and the person reproducing the work shall keep an account of all such copies sold by him.

(c) For the purposes of this regulation ' the date of the prescribed notice ' means—

- (i) in cases when the notice is required to be sent by registered post, the date when the notice would in ordinary course of post be delivered ;
- (ii) in cases when the notice is required to be advertised in the *London Gazette*, the date of such advertisement.

(d) Where royalties are by agreement payable in any other mode than by means of adhesive labels the time and frequency of the payment shall be such as are specified in the agreement.

(e) The adhesive label supplied as aforesaid shall be an adhesive paper label, square in shape, the design to be entirely enclosed within a circle, and the side of the label not to be greater than $\frac{3}{4}$ inch in length. The label shall not bear the effigy of the Sovereign or any other person, nor any word, mark, or design such as to suggest that the label is issued by or under the authority of the Government for the purpose of denoting any duty payable to the Government.

Interpretation.

6. In these Regulations the expression ' owner of the copyright ' has the same meaning as in Section 3 of the Copyright Act, 1911.

Dated this 7th day of June, 1912.

H. Llewellyn Smith,
Secretary to the Board of Trade.

THE COPYRIGHT ROYALTY SYSTEM (MECHANICAL
MUSICAL INSTRUMENTS) REGULATIONS, 1912.

DATED JUNE 7, 1912.

(Statutory Rules and Orders, 1912, No. 533)

THE Board of Trade, in pursuance of the powers conferred by Section 19 (6) of the Copyright Act, 1911, hereby make the following regulations :

Preliminary.

1. These Regulations may be cited as the Copyright Royalty System (Mechanical Musical Instruments) Regulations, 1912, and shall come into operation on the 1st day of July, 1912.

Notice.

2. The notice required by Section 19 (2) of the Copyright Act, 1911, shall contain the following particulars :

- (a) The name and address of the person intending to make the contrivances ;
- (b) the name of the musical work which it is intended to reproduce and of the author (if known) ; and (if necessary) a description sufficient to identify the musical work ;
- (c) the class of contrivance on which it is intended to reproduce the musical work (e. g. whether discs, cylinders, or music rolls) ;
- (d) the ordinary retail selling prices of the contrivances, and the amount of the royalty payable on each contrivance in respect of the musical work ;
- (e) the earliest date at which any of the contrivances will be delivered to a purchaser ;
- (f) whether any other work is to be reproduced on the same contrivance with the musical work specified in accordance with paragraph (b).

3. The notice shall, not less than ten days before any contrivances on which the musical work is reproduced are

delivered to a purchaser, be sent by registered post or published by advertisement as follows :

- (a) If the name and an address within the United Kingdom of the owner of the copyright, or his agent for the receipt of notice, are known or can with reasonable diligence be ascertained, the notice shall be sent to such owner or agent at such address ;
- (b) if such name and address are not known and cannot with reasonable diligence be ascertained, the notice shall be advertised in the *London Gazette* ; the advertisement in the *London Gazette* shall give the particulars required by paragraphs (a) and (b) of Regulation 2, and shall also state an address from which a copy of the notice described in Regulation 2 may be obtained. Any number of musical works may be included in the same advertisement.

The notice may be given either before or after the 1st day of July, 1912.

Payment of Royalties.

4.—(a) Unless otherwise agreed, royalties shall be payable by means of adhesive labels purchased from the owner of the copyright and affixed in the manner provided by these Regulations.

After the person making the contrivances has given the prescribed notice of his intention to make or sell the contrivances, the owner of the copyright shall by writing sent by registered post intimate to him some reasonably convenient place within the United Kingdom from which adhesive labels can be obtained and on demand in writing and tender of the price shall supply from such place adhesive labels of the required denominations at a price equal to the amount of royalty represented thereby.

Subject to these Regulations no contrivance shall be delivered to a purchaser until such label or labels denoting the amount of royalty have been affixed thereto, or in the case of cylinders, to which it is not reasonably practicable to affix the labels, until such label or labels have been affixed to a carton or box enclosing the cylinder.

(b) In cases where royalties are payable by means of adhesive labels if at any time labels of the required denominations are not available either because—

- (i) after the expiration of five days from the date of the prescribed notice of the intention of the person making the contrivances to make or sell such contrivances the owner of the copyright has not duly sent to the person making the contrivances an intimation of some reasonably convenient place within the United Kingdom from which such labels can be obtained ; or
- (ii) the owner of the copyright refuses or neglects to supply such labels within three days after demand duly made,

contrivances may be delivered to purchasers without having labels affixed thereto or to the carton or box enclosing the same ; and the amount of royalties shall be a debt due from the person making the contrivances to the owner of the copyright and the person making the contrivances shall keep an account of all such contrivances sold by him.

(c) For the purposes of this Regulation, ‘ the date of the prescribed notice ’ means—

- (i) in cases where the notice is required to be sent by registered post, the date when the notice would in ordinary course of post be delivered ;
- (ii) in cases where the notice is required to be advertised in the *London Gazette*, the date of such advertisement.

(d) In cases where royalties are payable on contrivances made before the commencement of the Copyright Act, 1911, the person making such contrivances may give notice of his intention to sell them, containing *mutatis mutandis* the same particulars and given in the same manner as is prescribed by these Regulations in the case of the notice required by Section 19 (2) of the Copyright Act, 1911.

(e) Where royalties are by agreement payable in any

other mode than by means of adhesive labels, the time and frequency of the payment shall be such as are specified in the agreement.

(f) The adhesive label supplied as aforesaid shall be an adhesive paper label, square in shape, the design to be entirely enclosed within a circle and the side of the label not to be greater than $\frac{3}{4}$ inch in length. The label shall not bear the effigy of the Sovereign or any other person, nor any word, mark, or design such as to suggest that the label is issued by or under the authority of the Government for the purpose of denoting any duty payable to the Government.

[NOTE.—The validity of this Regulation was attacked in *Monckton v. Pathé Frères Pathephone, Ltd.*, (1914) 1 K.B. 395, but it was upheld by the Court.]

Ordinary retail selling price.

5. The ordinary retail selling price of any contrivance shall be calculated at the marked or catalogued selling price of single copies to the public, or, if there is no such marked or catalogued selling price, at the highest price at which single copies are ordinarily sold to the public.

Inquiries.

6. The inquiries referred to in Section 19 (5) of the Copyright Act, 1911, shall be directed to the owner of the copyright by name or (if his name is not known and cannot with reasonable diligence be ascertained) in general terms to 'the owner of the copyright' of the musical work in respect of which the inquiries are made, and shall contain—

- (a) a statement of the name of the musical work in respect of which the inquiries are made and of the author (if known), and (if necessary) a description sufficient to identify it ;
- (b) a statement of the name, address, and occupation of the person making the inquiries ;
- (c) an allegation that a contrivance has previously been

made by means of which the musical work may be mechanically performed, with the trade name (if known) and a description of such contrivance ;

- (d) an inquiry whether the contrivance so described was made with the consent or acquiescence of the owner of the copyright.

7. The inquiries shall be sent by registered post or published by advertisement as follows :

- (a) if an address within the United Kingdom of the owner of the copyright is known or can with reasonable diligence be ascertained the inquiries shall be sent to such address ; or
(b) if such address is not known and cannot with reasonable diligence be ascertained the inquiries shall be advertised in the *London Gazette*.

8. The prescribed time for reply to such inquiries shall be :

- (a) in cases where the inquiries are required to be sent by registered post seven days after the date when the inquiries would in ordinary course of post be delivered ;
(b) in cases where the inquiries are required to be advertised in the *London Gazette* seven days after the date of such advertisement.

Interpretation.

9. In these Regulations the expression 'owner of the copyright' has the same meaning as in Section 19 (2) of the Copyright Act, 1911.

Dated this 7th day of June, 1912.

H. Llewellyn Smith,
Secretary to the Board of Trade.

THE NATIONAL LIBRARY OF WALES (DELIVERY
OF BOOKS) REGULATIONS, 1912. DATED JUNE 25,
1912.

(Statutory Rules and Orders, 1912, No. 635)

THE Board of Trade in pursuance of Section 15 (5) of the Copyright Act, 1911, hereby make the following regulations :

1. These Regulations may be cited as the National Library of Wales (Delivery of Books) Regulations, 1912, and shall come into operation on the 1st day of July, 1912.

2. The books, of which copies are to be delivered to the National Library of Wales in pursuance of Section 15 of the Copyright Act, 1911, shall not include any book of the following classes, viz. :

Books (other than books written wholly or mainly in Welsh or any other Celtic language, or relating wholly or mainly to the antiquities, language, literature, philology, history, religion, arts, crafts, or industries of the Welsh or other Celtic peoples, or relating wholly or mainly to the natural history of Wales) of which :

- (i) The number of copies in the published edition does not exceed 300 ; or
- (ii) The number of copies in the published edition does not exceed 400 and the published price of each volume exceeds £5 ; or
- (iii) The number of copies in the published edition does not exceed 600 and the published price of each volume exceeds £10.

3. For the purposes of these regulations the published edition of a book includes all copies of the same work published by the same publisher or his successor in business in a form substantially the same with respect to printing, illustrations and general condition.

Dated this 25th day of June, 1912.

H. Llewellyn Smith,
Secretary to the Board of Trade.

THE DESIGNS RULES, 1912. DATED JUNE 26, 1912.

(Statutory Rules and Orders, 1912, No. 661)

By virtue of the provisions of the Patents and Designs Act, 1907, and the Copyright Act, 1911, the Board of Trade do hereby make the following Rules :

Preliminary.

1. These Rules may be cited as the Designs Rules, 1912, and shall come into operation on the 1st day of July, 1912.

Designs excluded from protection under Copyright Act, 1911.

2. A design shall be deemed to be used as a model or pattern to be multiplied by any industrial process within the meaning of Section 22 of the Copyright Act, 1911—

- (a) When the design is reproduced or is intended to be reproduced in more than 50 single copies, unless all the articles in which the design is reproduced or is intended to be reproduced together form only a single set, as defined by Rule 5 of the Designs Rules, 1908 ;
- (b) Where the Design is to be applied to (1) printed paper hangings, (2) carpets, floorcloths, or oilcloths, manufactured or sold in lengths or pieces, (3) textile piece goods, or textile goods manufactured or sold in lengths or pieces, (4) lace, not made by hand.

Dated this 26th day of June, 1912.

H. Llewellyn Smith,
Secretary to the Board of Trade.

REGULATIONS, DATED JUNE 19, 1912, MADE BY THE COMMISSIONERS OF CUSTOMS AND EXCISE UNDER SECTION 14 OF THE COPYRIGHT ACT, 1911 (1 & 2 GEO. V, c. 46) AS TO THE DETENTION AND FORFEITURE OF COPIES INFRINGING COPYRIGHT.

(Statutory Rules and Orders, 1912, No. 1714)

THE Commissioners of Customs and Excise, in pursuance of the powers vested in them by Section 14 of the Copyright Act, 1911, hereby prescribe the following Regulations which are to be observed, on and after the 1st day of July, 1912.

1. The Notice in writing to be given to the Commissioners of Customs and Excise (hereinafter referred to as the said Commissioners) under Section 14 of the Copyright Act, 1911, by the owner of the copyright in any book or other printed work in which copyright subsists under the said Act or his agent who is desirous that copies thereof printed or reprinted out of the United Kingdom shall not be imported into the United Kingdom shall be in the Form No. 1 in the Schedule hereto or as near thereto as circumstances permit.

2. Any notice in regard to any book or other printed work in which copyright subsisted on the 30th day of June 1912 which was given to and accepted by the said Commissioners on or before that day pursuant to Section 42 of the Customs Consolidation Act, 1876, or Section 1 of the Revenue Act, 1889, shall for a period of twelve months from the first day of July 1912 if the copyright so long subsists be treated as a notice given under Section 14 of the Copyright Act, 1911, unless the notice is withdrawn or superseded or the said Commissioners require a further notice to be given.

3. The notice in writing to be given to the said Commissioners under Section 14 of the Copyright Act, 1911, by the owner of the copyright in any work (other than a book or other printed work) in which copyright subsists under the said Act or his agent who is desirous that copies

thereof made out of the United Kingdom shall not be imported into the United Kingdom may be either a general notice in the Form No. 2 in the Schedule hereto or as near thereto as circumstances permit or a special notice in the Form No. 3 in the same Schedule relating to a particular importation.

4. Every notice given in pursuance of these Regulations in the Form No. 1 or No. 2 in the Schedule hereto shall be accompanied by a statutory declaration in the Form No. 4 in the same Schedule.

5. Before any article which appears, or is alleged, to be a copy of a work to which a notice applies is detained, or any further proceedings with a view to the forfeiture thereof under the law relating to the Customs are taken, the person who signed the notice whether as owner or agent shall, if required so to do, give to the said Commissioners in writing such further information and evidence, verified if so required by a statutory declaration, as they consider necessary to satisfy them that the article in question is liable to detention and forfeiture.

6. In the case of any detention in consequence of a notice in the Form No. 3 given to the said Commissioners the person who signed the notice whether as owner or agent must if so required deposit with the Collector of Customs and Excise or other Chief Officer of Customs and Excise at the port or place of detention a sum of money sufficient in the opinion of that Officer to cover any expense which may be incurred in the examination required by reason of his notice of the goods detained, and if upon the examination of the goods the said Collector or other Chief Officer is satisfied that there is no ground for their detention, they will be delivered.

7. If any goods are placed under detention in consequence of any notice given in pursuance of these Regulations, the said Commissioners may require the person who signed the notice to give an undertaking in writing to reimburse them all expenses and damages incurred in respect of the detention, and of any proceedings for forfeiture subsequently taken if such an undertaking has not

already been given, and may also require him within four days after the detention to enter into a bond with two approved sureties in such form and for such amount as the said Commissioners may require.

8. Any deposit of money previously made will be returned on the completion of the bond.

9. In these Regulations—

‘Owner of the Copyright’ has the same meaning as in Section 14 of the Copyright Act, 1911.

‘Book or other printed work’ means every part or division of a book, pamphlet, sheet of letterpress, sheet of music, map, plan, chart, or table separately published.

Dated this 19th day of June, 1912.

Signed by Order of the Commissioners
of Customs and Excise.

J. P. Byrne,
E. C. Cunningham,
Secretaries.

The Schedule.

Form No. 1.

NOTICE.

Relating to Copyright Books and other printed works.

To the Commissioners of Customs and Excise.

I,
of
hereby give you notice that copyright in the original work (1)
mentioned in the Schedule hereto now subsists under
the Copyright Act, 1911, and that (2) the
owner of the copyright in the said work (1)
and that (3) desirous that copies of the said
work (1) printed or reprinted out of the
United Kingdom shall not be imported into the United Kingdom.

(1) or works.
(2) If notice
is given by
the owner,
insert ‘I am’;
if given by
an agent,
insert
name
of owner
and the
word ‘is’.
(3) ‘I am’
or ‘he is’.
(4) If an
agent, insert
‘Agent of
owner’.

Dated this day of , 19 .

(Signature) _____

(4) _____

Schedule.

(5) The notice may apply to a number of books or printed works in which case the particulars in the Schedule must be given as respects each book or printed work.

Title of Book (5) _____

Description of printed work, if not a book _____

Full name of Author or Authors _____

Whether Author or Authors alive, if not, date of death _____

When and where (6) book or printed work first published _____

(NOTE.—Where advantage has been taken of the provisions of the Copyright Act, 1911, as to simultaneous publication, the date and place stated should be those which entitle the work to copyright in the United Kingdom.)

(6) It is sufficient to state the *country* of first publication.

Form No. 2.

NOTICE.

Relating to Copyright Works, other than Books or other printed Works.

To the Commissioners of Customs and Excise.

I,

of

hereby give you notice that copyright in the original work mentioned in the Schedule hereto now subsists under the Copyright Act, 1911, and that (1) _____ the owner of the copyright in the said work, and that (2) _____ desirous that copies of the said work made out of the United Kingdom shall not be imported into the United Kingdom.

(1) If notice is given by the owner, insert 'I am'; if given by an agent, insert name of owner and the word 'is'.

(2) 'I am', or 'he is'.

(3) If an agent, insert 'Agent of owner'.

Dated the _____ day of _____, 19 .

(Signature) _____

(3) _____

Schedule.

Title of work (if any) _____

Full description of work _____

Initials or Marks (if any) usually placed on copies of work _____

Full name of Author or Authors _____

Whether Author or Authors alive, if not, date of death _____

When and where (4) work first published _____

(NOTE.—Where advantage has been taken of the provisions of the Copyright Act, 1911, as to simultaneous publication, the date and place stated should be those which entitle the work to copyright in the United Kingdom.)

If work not published :—

Whether Author British subject or not _____

(4) It is sufficient to state the *country* of first publication.

If not a British subject name of country in which Author
was resident, or domiciled at date of the making of the
work _____

In the case of photographs, phonographic records and music rolls, date
of making the original negative or original plate _____

Form No. 3.

NOTICE.

Relating to a particular importation.

To the Commissioners of Customs and Excise.

I,

of

hereby give you notice that I am the owner (1) _____
of the copyright in a certain original work as to which copyright
now subsists under the Copyright Act, 1911, and that the under-
mentioned goods, that is to say, (2) _____

(1) or 'Agent
for the owner'.

(2) Describe
the goods,
number of
packages,
marks used,
and any other
particulars
necessary
for their
identification.

are about to be imported into the _____ *Port of _____
on or about the _____ day of _____ next in
the (3) _____ from _____.

* or Sub-
Port.

(3) Describe
the ship, and
give name or
indication.

That such goods are liable to detention and forfeiture as being (4) _____

(4) State if
the goods are
copies of the
original work
made out of
the United

Kingdom, or
how other-
wise the
goods are
liable to
detention and
forfeiture.

(5) If an
agent, insert
'Agent of
owner'.

And I request that the said goods may be detained and dealt
with accordingly, and I hereby undertake to reimburse the Com-
missioners of Customs and Excise all expenses and damages to be
incurred in respect of the detention, and of any proceedings for
forfeiture which may be subsequently taken.

Dated this _____ day of _____, 19 _____.

(Signature) _____

(5) _____

Form No. 4.

STATUTORY DECLARATION.

I,

of

do solemnly and sincerely declare that the contents of the Notice
hereto annexed are true, and I make this solemn declaration con-

scientifically believing the same to be true and by virtue of the provisions of the Statutory Declarations Act, 1835.

Declared by the above-named

at

this

day of

, 19 ,

before me

A Commissioner for Oaths.

THE BRITISH MUSEUM (DELIVERY OF BOOKS)
REGULATION. DATED AUGUST 9, 1915.

(Statutory Rules and Orders, 1915, No. 773)

THE Board of Trade on the application of the Trustees of the British Museum, and by virtue of the powers given them by Section 1 of the Copyright (British Museum) Act, 1915, hereby make the following Regulation, to come into operation as from the date hereof :

There shall be excepted from the provisions of Section 15 (1) of the Copyright Act, 1911, whereby the publisher of any book published in the United Kingdom is required within one month after the publication to deliver, at his own expense, a copy of the book to the Trustees of the British Museum, the following publications, viz. :

Trade Advertisements,	Trade Labels,
Trade Cards,	Trade Leaflets,
Trade Catalogues,	Trade Plans,
Trade Circulars,	Trade Posters,
Trade Coupons,	Trade Price Lists,
Trade Designs,	Trade Prospectuses,
Trade Forms,	Trade Show Cards,
	Trade Wrappers.

Dated this 9th of August, 1915.

G. S. Barnes,

A Secretary to the Board of Trade.

IMPERIAL COPYRIGHT ORDER IN COUNCIL
ORDER IN COUNCIL EXTENDING THE COPYRIGHT
ACT, 1911 (1 & 2 GEO. V, c. 46) TO CERTAIN
BRITISH PROTECTORATES.

(Statutory Rules and Orders, 1912, No. 912)

At the Court at Buckingham Palace, the 24th day of June,
1912

Present,

The King's Most Excellent Majesty

Lord President	Sir Henry W. Primrose
Earl Beauchamp	Mr. C. F. G. Masterman
Lord Richard Cavendish	Sir David Brynmor Jones
Viscount Allendale	Sir James Henry Dalziel
Lord Chamberlain	Sir Albert Spicer, Bart.

WHEREAS it is, among other things, provided by the Copyright Act, 1911, that His Majesty may, by Order in Council, extend the said Act to any territories under His protection and to Cyprus, and that on the making of any such Order the said Act shall, subject to the provisions of the Order, have effect as if the territories to which it applies or Cyprus were part of His Majesty's Dominions to which the said Act extends :

Now, therefore, His Majesty, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, as follows :

1. The Copyright Act, 1911, shall apply to Cyprus and to the following territories under His Majesty's protection, namely, the Bechuanaland Protectorate, East Africa Protectorate, Gambia Protectorate, Gilbert and Ellice Islands Protectorate, Northern Nigeria Protectorate, Northern Territories of the Gold Coast, Nyasaland Protectorate, Northern Rhodesia, Southern Rhodesia, Sierra Leone Protectorate, Somaliland Protectorate, Southern Nigeria Protectorate, Solomon Islands Protectorate, Swaziland, Uganda Protectorate, and Weihaiwei.

[NOTE.—The Gilbert and Ellice Islands have now been annexed.]

2. In Article 12 of 'The Somaliland Order in Council, 1899', the word 'Copyright' is hereby revoked and shall be deleted.

Almeric Fitzroy.

INTERNATIONAL COPYRIGHT ORDERS IN COUNCIL

FOREIGN COUNTRIES OF THE COPYRIGHT UNION

ORDER IN COUNCIL UNDER THE COPYRIGHT ACT, 1911
(1 & 2 GEO. V, C. 46), REGULATING COPYRIGHT RELATIONS WITH THE FOREIGN COUNTRIES OF THE BERNE CONVENTION UNION.

(Statutory Rules and Orders, 1912, No. 913)

At the Court at Buckingham Palace, the 24th day of June,
1912

Present,

The King's Most Excellent Majesty in Council.

WHEREAS on the 9th day of September 1886, a Convention with respect to the protection to be given by way of copyright to the authors of literary and artistic works (hereinafter called the Berne Convention) set out in the Second Schedule to this Order was concluded between Her late Majesty Queen Victoria and the foreign countries following, that is to say:—Belgium, France, Germany, Hayti, Italy, Spain, Switzerland, and Tunis, and on the 5th day of September 1887, the ratifications of the said Berne Convention were duly exchanged between Her late Majesty Queen Victoria and the aforesaid countries:

And whereas subsequently the foreign countries following, namely, Luxemburg, Monaco, Montenegro, Norway and Sweden, acceded to the said Berne Convention:

And whereas an additional Act to the said Berne Convention (hereinafter called the Additional Act) set out in the Third Schedule to this Order was agreed upon

between Her late Majesty Queen Victoria and the foreign countries following, namely, Belgium, France, Germany, Italy, Luxemburg, Monaco, Montenegro, Spain, Switzerland, and Tunis, for the purpose of varying the provisions of the said Berne Convention, and the ratifications of the said Additional Act were, on the 9th day of September 1897, exchanged between Her late Majesty Queen Victoria and the aforesaid countries :

And whereas subsequently the Republic of Hayti acceded to the said Additional Act, and the foreign countries following, namely, Denmark and the Farøe Islands, the German Protectorates, Japan and Liberia, acceded to the said Berne Convention and the said Additional Act, and the Principality of Montenegro duly denounced the said Berne Convention and the said Additional Act :

And whereas by the Orders in Council mentioned in the Fifth Schedule to this Order and made under the authority of the International Copyright Acts, 1844 to 1886, effect is now given throughout His Majesty's dominions to the said Berne Convention and the said Additional Act :

And whereas a Convention (hereinafter called the Berlin Convention) set out in the First Schedule to this Order was on the 13th day of November 1908, agreed upon between His late Majesty King Edward VII and the foreign countries following, namely : Belgium, Denmark, France, Germany, Italy, Japan, Liberia, Luxemburg, Monaco, Norway, Spain, Sweden, Switzerland, and Tunis, for the purpose of replacing the said Berne Convention and the said Additional Act :

And whereas it is provided by the said Berlin Convention that the contracting States may make reservations by declaring at the exchange of ratifications that they desire to remain bound, as regards any specific point, by the provisions of the said Berne Convention and the said Additional Act, and it is further provided by the said Berlin Convention that the said Berne Convention and the said Additional Act shall remain in force in regard to relations with contracting States which do not ratify the said Berlin Convention :

And whereas the said Berlin Convention was ratified by His Majesty on the 14th day of June 1912, subject to the reservation mentioned in Part I of the Fourth Schedule to this Order :

And whereas the said Berlin Convention has also been ratified by the foreign countries following, namely, Belgium, France, Germany, Hayti, Japan, Liberia, Luxemburg, Monaco, Norway, Spain, Switzerland, and Tunis, subject to the reservations mentioned in Part II of the Fourth Schedule to this Order :

And whereas the Republic of Portugal has acceded to the said Berlin Convention :

And whereas by the Copyright Act, 1911, the aforesaid International Copyright Acts, 1844 to 1886, are repealed, as from the commencement of the said Copyright Act, 1911, in the parts of His Majesty's dominions to which the said Act extends :

And whereas by the said Copyright Act, 1911, authority is conferred upon His Majesty to extend by Order in Council the protection of the said Act to certain classes of foreign works within any part of His Majesty's dominions, other than self-governing dominions, to which the said Act extends :

Now, therefore, His Majesty, by and with the advice of His Privy Council, and by virtue of the authority conferred upon Him by the Copyright Act, 1911, is pleased to order, and it is hereby ordered as follows :

1. This Order shall extend to the foreign countries following, namely, Belgium, Denmark and the Faröe Islands, France, Germany, and the German Protectorates, Hayti, Italy, Japan, Liberia, Luxemburg, Monaco, Norway, Portugal, Spain, Sweden, Switzerland, and Tunis. And the above countries are in this Order referred to as the foreign countries of the Copyright Union.

2. The Copyright Act, 1911, including the provisions as to existing works, shall subject to the provisions of the said Act and of this Order apply—

(a) to works first published in a foreign country of the Copyright Union, in like manner as if they had

been first published within the parts of His Majesty's dominions to which the said Act extends :

- (b) to literary, dramatic, musical and artistic works, the authors whereof were at the time of the making of the works subjects or citizens of a foreign country of the Copyright Union, in like manner as if the authors had been British subjects :
- (c) in respect of residence in a foreign country of the Copyright Union, in like manner as if such residence had been residence in the parts of His Majesty's dominions to which the said Act extends.

Provided that—

- (i) Sections 1 (2) (d) and 19 of the Copyright Act, 1911, and such other part or parts thereof as confer upon the owner of the copyright in a literary, dramatic or musical work the exclusive right of making any record perforated roll cinematograph film or other contrivance by means of which the work may be mechanically performed and such other part or parts thereof as confer copyright in any record or perforated roll shall not apply in the case of any work of which the country of origin is Denmark, Italy, or Sweden.
- (ii) The term of copyright within the parts of His Majesty's dominions to which this Order applies shall not exceed that conferred by the law of the country of origin of the work.
- (iii) The enjoyment of the rights conferred by the Copyright Act, 1911, shall be subject to the accomplishment of the following conditions and formalities, that is to say :

(a) In the case of any newspaper article (not being a serial story or tale) of which the country of origin is one of the foreign countries following, namely, Belgium, France, Germany, and the German Protectorates, Hayti, Liberia, Luxemburg, Monaco, Portugal, Spain, Switzerland, and Tunis, the right to prevent the reproduction of such article (either in the original language or in

a translation) in another newspaper with an indication of the source shall be conditional upon reproduction being forbidden by express declaration in some conspicuous part of the newspaper in which the article is published.

(b) In the case of any newspaper or magazine article (not being a serial story or tale) of which the country of origin is Denmark, Italy, Norway, or Sweden, the right to prevent the reproduction of such article (either in the original language or in a translation) with an indication of the source shall be conditional upon reproduction being forbidden by express declaration in some conspicuous part of newspaper or magazine in which the article is published.

(c) In the case of any literary or dramatic work of which the country of origin is Denmark, Italy, Japan, or Sweden, the right after the expiration of ten years from the end of the year in which the work or in the case of a book published in numbers each number of the work was first published, to prevent the production, reproduction, performance in public or publication of any translation of the work shall be conditional upon the publication before the expiration of the above-mentioned period and within the parts of His Majesty's dominions to which this Order applies or within any foreign country of the Copyright Union of an authorized translation in the language for which protection is claimed of the work or of each number of the work.

(d) In the case of any published musical work of which the country of origin is Denmark, Italy, Japan, or Sweden the right to prevent performance in public shall be conditional upon performance in public being forbidden by an express declaration on the title-page or commencement of the work.

(e) In the case of any work of which the country of origin is Denmark, Italy, or Sweden the entire

rights conferred by the Copyright Act, 1911, shall be conditional upon the accomplishment of the conditions and formalities prescribed by law in the country of origin.

- (iv) Nothing in the provisions of the Copyright Act, 1911, as applied to existing works, shall be construed as reviving any right of preventing the production or importation of any translation in any case where the right has ceased by virtue of Section 5 of the International Copyright Act, 1886.

3. Subject to the provisions of Article 2 proviso (i) of this Order where any musical work to which this Order applies has been published before the commencement of the Copyright Act, 1911, but no contrivances by means of which the work may be mechanically performed have before the commencement of this Order been lawfully made, or placed on sale, within the parts of His Majesty's dominions to which this Order applies, copyright in the work shall include all rights conferred by the said Act with respect to the making of records, perforated rolls, and other contrivances by means of which the work may be mechanically performed.

4. In this Order the expression, 'the country of origin', as applied to a work has the same meaning as in the third paragraph of Article 4 of the Berlin Convention.

5.—(a) This Order shall apply to all His Majesty's dominions, colonies, and possessions, excepting to those hereinafter named, that is to say, except to—

The Dominion of Canada,
The Commonwealth of Australia,
The Dominion of New Zealand,
The Union of South Africa,
Newfoundland.

(b) This Order shall also apply to Cyprus, and to the following territories under His Majesty's protection, that is to say, the Bechuanaland Protectorate, East Africa Protectorate, Gambia Protectorate, Gilbert and Ellice Islands Protectorate, Northern Nigeria Protectorate,

Northern Territories of the Gold Coast, Nyasaland Protectorate, Northern Rhodesia, Southern Rhodesia, Sierra Leone Protectorate, Somaliland Protectorate, Southern Nigeria Protectorate, Solomon Islands Protectorate, Swaziland, Uganda Protectorate, and Weihaiwei.

[NOTE.—The Gilbert and Ellice Islands have now been annexed.]

6. The Orders mentioned in the Fifth Schedule to this Order are hereby revoked, as from the date of the commencement of this Order, so far as regards the parts of His Majesty's dominions to which this Order applies :

Provided that neither such revocation nor anything else in this Order shall prejudicially affect any right acquired or accrued before the commencement of this Order by virtue of any Order hereby revoked, and any person entitled to such right shall continue entitled thereto, and to the remedies for the same, in like manner as if this Order had not been made.

7. This Order shall be construed as if it formed part of the Copyright Act, 1911.

8. This Order shall come into operation in the United Kingdom on the 1st day of July 1912, and in any other part of His Majesty's dominions to which this Order applies, on the day on which the Copyright Act, 1911, comes into operation in such part ; which day is in this Order referred to as the commencement of this Order.

And the Lords Commissioners of His Majesty's Treasury are to give the necessary orders accordingly.

Almeric Fitzroy.

First Schedule.

[Sets out an English translation of the Berlin Convention, omitting formal parts.]

Second Schedule.

[Sets out an English translation of the Berne Convention, omitting formal parts.]

Third Schedule.

[Sets out an English translation of the Additional Act of Paris, omitting formal parts.]

Fourth Schedule.

RESERVATIONS MADE TO THE BERLIN CONVENTION.

Country.	Subject.	Provisions remaining in force.
PART I.		
Great Britain	Retrospective effect .	Article 14 and paragraph 4 of the Final Protocol of the Berne Convention, as amended by the Additional Act.
PART II.		
France .	{ Works of art applied to industrial purposes.	Provisions of Berne Convention and Additional Act.
Tunis .		
Japan .	Translating right .	Article 5 of the Berne Convention, as amended by the Additional Act.
	Performing right in musical works.	Article 9, paragraph 3, of the Berne Convention.
	Works of architecture	Article 4 of the Berne Convention.
Norway .	Newspaper and magazine articles.	Article 7 of the Berne Convention.
	Retrospective effect .	Article 14 of the Berne Convention.

Fifth Schedule.

Orders in Council, of the dates named below, for securing the privileges of copyright in His Majesty's dominions to authors of literary and artistic works first produced in the following foreign countries, namely:—

Date of Order.	Countries to which it extends.
November 28, 1887	Belgium, France, Germany, Hayti, Italy, Spain, Switzerland, and Tunis.
August 10, 1888	Luxemburg.
October 15, 1889	Monaco.
August 1, 1896	Norway.
March 7, 1898	Belgium, France, Germany, Italy, Luxemburg, Monaco, Spain, Switzerland, and Tunis.
May 19, 1898	Hayti.
August 8, 1899	Japan.
October 9, 1903	Denmark and the Farøe Islands.
December 12, 1904	Sweden.
December 21, 1908	Liberia.
March 2, 1909	German Protectorates.

DENMARK AND JAPAN

ORDER IN COUNCIL AMENDING THE ORDER IN COUNCIL
OF JUNE 24, 1912, REGULATING COPYRIGHT RELATIONS
WITH THE FOREIGN COUNTRIES OF THE BERNE
COPYRIGHT UNION AS REGARDS DENMARK AND JAPAN.

(Statutory Rules and Orders, 1913, No. 330)

At the Court at Buckingham Palace, the 17th day of
March, 1913

Present,

The King's Most Excellent Majesty

Lord President

Lord Stamfordham

Viscount Knollys

Mr. Herbert Samuel.

WHEREAS His Majesty, by virtue of the authority conferred on Him by the Copyright Act, 1911, and having regard to the provisions of the Berlin Copyright Convention, was pleased to make an Order in Council, dated the 24th day of June, 1912 (hereinafter called the Principal Order), extending the protection of the said Act to certain classes of works to which protection is guaranteed by the said Convention :

And whereas the Kingdom of Denmark has ratified the said Convention subject to the reservation mentioned in the Schedule attached to this Order :

And whereas it is expedient that Article 2, Proviso (iii) (a), of the Principal Order should be extended so as to apply to newspaper articles (not being serial stories or tales) of which the country of origin is Japan :

Now, therefore, His Majesty, by and with the advice of His Privy Council, and by virtue of the authority conferred upon Him by the Copyright Act, 1911, is pleased to order, and it is hereby ordered, as follows :

1. The provisions of Article 2, Proviso (i), Article 2, Proviso (iii) (c), Article 2, Proviso (iii) (d), and Article 2, Proviso (iii) (e), of the Principal Order are hereby revoked so far as they relate to works of

which the country of origin is Denmark, and the authors of all such works shall enjoy the same rights as if the said provisions had never related thereto.

2. In the application of the provisions of Article 3 of the Principal Order to works of which the country of origin is Denmark, the date of this Order shall be substituted for the commencement of the Act and for the commencement of the Principal Order.
3. Where any person has, before the date of this Order, taken any action whereby he has incurred any expenditure or liability in connexion with the reproduction or performance of any work at a time when such reproduction or performance would, but for the making of this Order, have been lawful, nothing in this Order shall diminish or prejudice any rights or interest arising from, or in connection with, such action which are subsisting or valuable at the said date unless the person who, by virtue of this Order, becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined in accordance with the provisions of the Copyright Act, 1911.
4. The provisions of Article (2), Proviso (iii) (a), of the Principal Order shall apply as if Japan were included amongst the foreign countries named in those provisions.

And the Lords Commissioners of the Treasury are to give the necessary orders accordingly.

Almeric FitzRoy.

Schedule.

RESERVATION MADE TO THE BERLIN CONVENTION.

Country.	Subject.	Substituted Provisions of Berne Convention and Additional Act of Paris.
Denmark . .	Newspaper and Magazine Articles.	Article (7) of the Berne Convention as amended by the Additional Act.

THE NETHERLANDS

ORDER IN COUNCIL EXTENDING THE ORDER IN COUNCIL
OF JUNE 24, 1912, REGULATING COPYRIGHT RELATIONS
WITH THE FOREIGN COUNTRIES OF THE BERNE COPY-
RIGHT UNION TO THE NETHERLANDS.

(Statutory Rules and Orders, 1913, No. 331)

At the Court at Buckingham Palace, the 17th day of
March, 1913

Present,

The King's Most Excellent Majesty

Lord President

Lord Stamfordham

Viscount Knollys

Mr. Herbert Samuel.

Whereas His Majesty, by virtue of the authority conferred on Him by the Copyright Act, 1911, and having regard to the provisions of the Berlin Copyright Convention, was pleased to make an Order in Council, dated the 24th day of June, 1912 (hereinafter called the Principal Order), extending the protection of the said Act to certain classes of works to which protection is guaranteed by the said Convention.

And whereas the Kingdom of the Netherlands has acceded to the said Convention subject to the reservations mentioned in the Schedule to this Order :

Now, therefore, His Majesty, by and with the advice of His Privy Council, and by virtue of the authority conferred upon Him by the Copyright Act, 1911, is pleased to order, and it is hereby ordered, as follows :

The Principal Order shall extend to the Netherlands as if that country were amongst the foreign countries of the Copyright Union therein named, subject to the following modifications :

- (a) The provisions of Article (2), Proviso (iii) (b), and of Article (2), Proviso (iii) (c) of the Principal Order shall apply as if the Netherlands were included

amongst the foreign countries named in those provisions.

- (b) In the application to works of which the country of origin is the Netherlands of sections 1 (2) (d) and 19 of the Copyright Act, 1911, the date of this Order shall be substituted for the commencement of the Act in sections 19 (7) and 19 (8) wherever that expression occurs, and the 1st November, 1912, for the passing of the Act.
- (c) In the application to such works of the provisions of section 24 of the Copyright Act, 1911, the date of this Order shall be substituted for the commencement of the Act wherever that expression occurs in subsection (1) (a), and for the 26th July, 1910, in subsection 1 (b).
- (d) In the application to such works of the provisions of Article (3) of the Principal Order the date of this Order shall be substituted for the commencement of the Principal Order.

And the Lords Commissioners of His Majesty's Treasury are to give the necessary orders accordingly.

Almeric FitzRoy.

Schedule.

RESERVATIONS MADE TO THE BERLIN CONVENTION.

Country.	Subject.	Substituted Provisions of Berne Convention and Additional Act of Paris.
Netherlands	Translating right.	Article 5 of the Berne Convention as amended by the Additional Act.
	Newspaper and Magazine Articles.	Article 7 of the Berne Convention as amended by the Additional Act.
	Performing right as regards translations.	Article 9, Paragraph (2), of the Berne Convention.

THE NETHERLANDS (EAST INDIES AND CURAÇAO)

ORDER IN COUNCIL UNDER THE COPYRIGHT ACT, 1911
(1 & 2 GEO. V, c. 46), EXTENDING THE ORDER IN
COUNCIL OF JUNE 24, 1912, REGULATING COPYRIGHT
RELATIONS WITH FOREIGN COUNTRIES OF THE BERNE
COPYRIGHT UNION TO THE NETHERLANDS, EAST
INDIES AND THE COLONY OF CURAÇAO.

(Statutory Rules and Orders, 1913, No. 482)

At the Court at Buckingham Palace, the 11th day of
April, 1913

Present,

The King's Most Excellent Majesty

Lord President

Lord Chamberlain

Viscount Allendale

Mr. J. A. Pease.

Whereas His Majesty, by virtue of the authority conferred on Him by the Copyright Act, 1911, and having regard to the provisions of the Berlin Copyright Convention, was pleased to make an Order in Council, dated the 24th day of June, 1912 (hereinafter called the Principal Order), extending the protection of the said Act to certain classes of works to which protection is guaranteed by the said Convention.

And whereas by Orders in Council, dated the 17th day of March, 1913, the provisions of the Principal Order were extended, subject to certain modifications, to Denmark and the Netherlands.

And whereas the Kingdom of the Netherlands has acceded on behalf of the Netherlands East Indies and the Colony of Curaçao to the said Berlin Copyright Convention, subject to the reservations mentioned in the Schedule to this Order :

Now, therefore, His Majesty, by and with the advice of His Privy Council, and by virtue of the authority conferred upon Him by the Copyright Act, 1911, is pleased to order, and it is hereby ordered, as follows :

1. The Principal Order shall extend to the Netherlands East Indies and the Colony of Curaçao as if they were amongst the foreign countries of the Copyright Union therein named, subject to the following modifications :

- (a) The provisions of Article (2), Proviso (iii) (b), and of Article (2), Proviso (iii) (c), of the Principal Order shall apply as if the Netherlands East Indies and the Colony of Curaçao were included amongst the foreign countries named in those provisions.
- (b) In the application to works of which the country of origin is the Netherlands East Indies or the Colony of Curaçao of section 1 (2) (d) and 19 of the Copyright Act, 1911, the date of this Order shall be substituted for the commencement of the Act in sections 19 (7) and 19 (8) wherever that expression occurs, and the 1st April, 1913, for the passing of the Act.
- (c) In the application to such works of the provisions of Section 24 of the Copyright Act, 1911, the date of this Order shall be substituted for the commencement of the Act wherever that expression occurs in subsection (1) (a) and for the 26th July, 1910, in subsection (1) (b).
- (d) In the application to such works of the provisions of Article 3 of the Principal Order the date of this Order shall be substituted for the commencement of the Principal Order.

And the Lords Commissioners of His Majesty's Treasury are to give the necessary Orders accordingly.

Almeric FitzRoy.

Schedule.

RESERVATIONS MADE TO THE BERLIN CONVENTION.

Country.	Subject.	Substituted provisions, Convention and Additional Act of Paris.
Netherlands	Translating right.	Article 5 of the Berne Convention as amended by the Additional Act.
	Newspaper and Magazine Articles.	Article 7 of the Berne Convention as amended by the Additional Act.
	Performing right as regards translations.	Article 9, Paragraph (2), of the Berne Convention.

THE NETHERLANDS (SURINAM)

ORDER IN COUNCIL EXTENDING THE ORDER IN COUNCIL
OF JUNE 24, 1912, REGULATING COPYRIGHT RELATIONS
WITH THE FOREIGN COUNTRIES OF THE BERNE COPY-
RIGHT UNION TO THE COLONY OF SURINAM.

(Statutory Rules and Orders, 1913, No. 694)

At the Court at Buckingham Palace, the 13th day of
June, 1913

Present,

The King's Most Excellent Majesty

Lord President	Lord Islington
Lord Chamberlain	Sir Samuel W. Griffith
Lord Welby	Mr. J. Herbert Lewis
Lord Ashby St. Ledgers	Sir Alfred M. Mond, Bart.
Lord Justice Swinfen Eady.	

Whereas His Majesty, by virtue of the authority conferred on Him by the Copyright Act, 1911, and having regard to the provisions of the Berlin Copyright Convention, was pleased to make an Order in Council, dated the 24th day of June, 1912 (hereinafter called the Principal Order), extending the protection of the said Act to certain classes of works to which protection is guaranteed by the said Convention.

And whereas by Orders in Council dated the 17th day of March, 1913, and the 11th day of April, 1913, the provisions of the Principal Order were extended, subject to certain modifications, to Denmark, the Netherlands, the Netherlands East Indies, and the Colony of Curaçao.

And whereas the Kingdom of the Netherlands has acceded on behalf of the Colony of Surinam to the said Berlin Copyright Convention, subject to the reservations mentioned in the Schedule to this Order :

Now, therefore, His Majesty, by and with the advice of His Privy Council, and by virtue of the authority conferred upon Him by the Copyright Act, 1911, is pleased to order, and it is hereby ordered, as follows :

The Principal Order shall extend to the Colony of Surinam as if it were amongst the foreign countries of the Copyright Union therein named, subject to the following modifications :

- (a) The provisions of Article (2), Proviso (iii) (b), and of Article (2), Proviso (iii) (c) of the Principal Order shall apply as if the Colony of Surinam were included amongst the foreign countries named in those provisions.
- (b) In the application to works of which the country of origin is the Colony of Surinam of section 1 (2) (d) and 19 of the Copyright Act, 1911, the date of this Order shall be substituted for the commencement of the Act in sections 19 (7) and 19 (8) wherever that expression occurs, and the 1st April, 1913, for the passing of the Act.
- (c) In the application to such works of the provisions of section 24 of the Copyright Act, 1911, the date of this Order shall be substituted for the commencement of the Act wherever that expression occurs in subsection (1) (a), and for the 26th July, 1910, in subsection (1) (b).
- (d) In the application to such works of the provisions of Article 3 of the Principal Order the date of this Order shall be substituted for the commencement of the Principal Order.

And the Lords Commissioners of His Majesty's Treasury are to give the necessary orders accordingly.

Almeric FitzRoy.

Schedule.

RESERVATIONS MADE TO THE BERLIN CONVENTION.

Country.	Subject.	Substituted provisions of Berne Convention and Additional Act of Paris.
Netherlands	Translating right.	Article 5 of the Berne Convention as amended by the Additional Act.
	Newspaper and Magazine Articles.	Article 7 of the Berne Convention as amended by the Additional Act.
	Performing right as regards translations.	Article 9, Paragraph (2), of the Berne Convention.

ITALY

ORDER IN COUNCIL AMENDING THE ORDER IN COUNCIL OF
JUNE 24, 1912, REGULATING COPYRIGHT RELATIONS
WITH THE FOREIGN COUNTRIES OF THE BERNE COPY-
RIGHT UNION AS REGARDS ITALY.

(Statutory Rules and Orders, 1914, No. 223)

At the Court at Buckingham Palace, the 9th day of
February, 1914

Present,

The King's Most Excellent Majesty in Council.

Whereas His Majesty, by virtue of the authority conferred on Him by the Copyright Act, 1911, and having regard to the provisions of the Berlin Copyright Convention, was pleased to make an Order in Council, dated the 24th day of June, 1912 (hereinafter called the Principal Order), extending the protection of the said Act to certain classes of works to which protection is guaranteed by the said Convention :

And whereas it is provided in Article (2), Proviso (i), of the Principal Order that sections 1 (2) (d) and 19 of the Copyright Act, 1911, and such other part or parts thereof as confer upon the owner of the copyright in a literary, dramatic, or musical work the exclusive right of making any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed and such other part or parts thereof as confer copyright in any record or perforated roll shall not apply in the case of any work of which the country of origin is Italy :

And whereas His Majesty has received an assurance from the Italian Government to the effect that the widest protection is granted in Italy to works of British origin, to the authors of which is reserved the exclusive right of every form of reproduction, execution, or representation by any means whatever (including the cinematograph as well as mechanical musical instruments) :

And whereas in view of this assurance it is expedient to revoke the provision above referred to in Article (2), Proviso (i), of the Principal Order :

Now, therefore, His Majesty, by and with the advice of His Privy Council, and by virtue of the authority conferred upon Him by the Copyright Act, 1911, is pleased to order, and it is hereby ordered, as follows :

1. The provisions of Article (2), Proviso (i), of the Principal Order are hereby revoked so far as they relate to works of which the country of origin is Italy.
2. In the application of the provisions of Article (3) of the Principal Order to works of which the country of origin is Italy, the commencement of this Order shall be substituted for the commencement of the Act and for the commencement of the Principal Order.
3. In the application to works of which the country of origin is Italy of sections 1 (2) (d) and 19 of the Copyright Act, 1911, the commencement of this Order shall be substituted for the commencement of the Act, and for the passing of the Act, in sections 19 (7) and 19 (8), wherever those expressions occur, and the 1st day of July, 1914, for the 1st day of July, 1913.
4. Where any person has, before the date of this Order, taken any action whereby he has incurred any expenditure or liability in connection with the reproduction or performance of any work at a time when such reproduction or performance would, but for the making of this Order, have been lawful, nothing in this Order shall diminish or prejudice any rights or interest arising from, or in connection with, such action which are subsisting or valuable at the said date unless the person who, by virtue of this Order, becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined in accordance with the provisions of the Copyright Act, 1911.
5. This Order shall come into operation on the 1st day

of April 1914, which date is in this Order referred to as the commencement of the Order.

And the Lords Commissioners of His Majesty's Treasury are to give the necessary orders accordingly.

Almeric FitzRoy.

ITALY (AMENDMENT)

ORDER IN COUNCIL VARYING ORDER IN COUNCIL OF
FEBRUARY 9, 1914, REGULATING COPYRIGHT RELATIONS AS REGARDS ITALY.

(Statutory Rules and Orders, 1914, No. 521)

At the Court at Buckingham Palace, the 30th day of
March, 1914

Present,

The King's Most Excellent Majesty in Council.

WHEREAS His Majesty, by virtue of the authority conferred upon Him by the Copyright Act, 1911, was pleased to make an Order in Council, dated the 9th day of February 1914, revoking, so far as they relate to works of which the country of origin is Italy, the provisions of Article 2, Proviso (1), of the Order in Council therein referred to as the Principal Order :

And whereas it is expedient that Article 3 of the said first mentioned Order should be varied :

Now, therefore, His Majesty, by and with the advice of His Privy Council, and by virtue of the authority conferred upon Him by the Copyright Act, 1911, is pleased to order, and it is hereby ordered, as follows :

1. Article 3 of the said Order shall be varied by omitting therefrom the words 'and the 1st day of July 1914, for the 1st day of July 1913', and the Article shall take effect as if those words had not been inserted therein.

2. This Order shall come into operation on the 1st day of April 1914.

And the Lords Commissioners of His Majesty's Treasury are to give the necessary Orders accordingly.

Almeric FitzRoy.

ITALY (AMENDMENT)

ORDER IN COUNCIL FURTHER AMENDING THE ORDER IN COUNCIL OF JUNE 24, 1912, REGULATING COPYRIGHT RELATIONS WITH THE FOREIGN COUNTRIES OF THE BERNE COPYRIGHT UNION AS REGARDS ITALY.

(Statutory Rules and Orders, 1915, No. 257)

At the Court at Buckingham Palace, the 23rd day of March,
1915

Present,

The King's Most Excellent Majesty

Lord President Sir Francis Hopwood

Lord Chamberlain Sir Frederick Ponsonby.

WHEREAS His Majesty, by virtue of the authority conferred on Him by the Copyright Act, 1911, and having regard to the provisions of the Berlin Copyright Convention, was pleased to make an Order in Council, dated the 24th day of June 1912 (hereinafter called the Principal Order), extending the protection of the said Act to certain classes of works to which protection is guaranteed by the said Convention :

And whereas the Kingdom of Italy has ratified the said Convention, subject to the reservations mentioned in the Schedule attached to this Order :

And whereas the provisions of Article 2, Proviso (i), of the Principal Order, so far as they relate to works of which the country of origin is Italy, were revoked by Order in Council dated the 9th day of February 1914, as varied by Order in Council dated the 30th day of March 1914 :

Now, therefore, His Majesty, by and with the advice of His Privy Council, and by virtue of the authority conferred upon Him by the Copyright Act, 1911, is pleased to order, and it is hereby ordered, as follows :

1. The provisions of Article 2, Proviso (iii) (a), of the Principal Order shall apply as if Italy were included amongst the Foreign Countries named in those provisions.

2. The provisions of Article 2, Proviso (iii) (b), Article 2,

Proviso (iii) (d), and Article 2, Proviso (iii) (e), of the Principal Order are hereby revoked so far as they relate to works of which the country of origin is Italy, and the authors of all such works shall enjoy the same rights as if the said provisions had never related thereto.

3. Where any person has, before the commencement of this Order, taken any action whereby he has incurred any expenditure or liability in connection with the reproduction or performance of any work in a manner which at the time was lawful, or for the purpose of, or with a view to the reproduction or performance of, a work at a time when such reproduction or performance would, but for the making of this Order, have been lawful, nothing in this Order shall diminish or prejudice any rights or interest arising from, or in connection with, such action which are subsisting or valuable at the said date unless the person who, by virtue of this Order, becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined in accordance with the provisions of the Copyright Act, 1911.

4. This Order shall come into operation on the 23rd day of December 1914, which day is in this Order referred to as the commencement of this Order.

And the Lords Commissioners of the Treasury are to give the necessary orders accordingly.

Almeric FitzRoy.

Schedule.

RESERVATIONS MADE TO THE BERLIN CONVENTION.

Country.	Subject.	Substituted Provisions of Berne Convention and Additional Act of Paris.
Italy . . .	Translating right . . .	Article 5 of the Berne Convention, as amended by the Additional Act.
	Performing right as regards translations.	Article 9, paragraph (2), of the Berne Convention.

UNITED STATES OF AMERICA

ORDER IN COUNCIL UNDER THE COPYRIGHT ACT, 1911
(1 & 2 GEO. V, c. 46), REGULATING COPYRIGHT RELATIONS WITH THE UNITED STATES OF AMERICA.

(Statutory Rules and Orders, 1915, No. 130)

At the Court at Buckingham Palace, the 3rd day of February,
1915

Present,

The King's Most Excellent Majesty

Lord President	Mr. Secretary Harcourt
Viscount Knollys	Mr. Arthur Henderson
Lord Chamberlain	Sir William Macgregor
Lord Justice Banks.	

WHEREAS by a Proclamation of the President of the United States of America, dated the 9th April 1910, the benefits of the United States Act of 1909, entitled ' An Act to amend and consolidate the Acts respecting Copyright ', were extended to the Subjects of Great Britain and her Possessions, but no provision was made therein for the protection of the musical works of British Subjects against reproduction by means of mechanical contrivances :

And whereas His Majesty is advised that the Government of the United States of America has undertaken, upon the issue of this Order, to grant such protection to the musical works of British Subjects :

And whereas by reason of these premises His Majesty is satisfied that the Government of the United States of America has made, or has undertaken to make, such provision as it is expedient to require for the protection of works entitled to Copyright under the provisions of Part I of the Copyright Act, 1911 :

And whereas by the Copyright Act, 1911, authority is conferred upon His Majesty to extend, by Order in Council, the protection of the said Act to certain classes of foreign works within any part of His Majesty's Dominions, other

than self-governing Dominions, to which the said Act extends :

And whereas it is desirable to provide protection within the said Dominions for the unpublished works of Citizens of the United States of America :

Now, therefore, His Majesty, by and with the advice of His Privy Council, and by virtue of the authority conferred upon him by the Copyright Act, 1911, is pleased to order, and it is hereby ordered, as follows :

1. The Copyright Act, 1911, including the provisions as to existing works, shall, subject to the provisions of the said Act and of this Order, apply—

- (a) to literary, dramatic, musical and artistic works the authors whereof were at the time of the making of the works Citizens of the United States of America, in like manner as if the authors had been British Subjects :
- (b) in respect of residence in the United States of America, in like manner as if such residence had been residence in the parts of His Majesty's Dominions to which the said Act extends.

Provided that—

- (i) the term of Copyright within the parts of His Majesty's Dominions to which this Order applies shall not exceed that conferred by the law of the United States of America :
- (ii) the enjoyment of the rights conferred by this Order shall be subject to the accomplishment of the conditions and formalities prescribed by the law of the United States of America :
- (iii) in the application to existing works of the provisions of Section 24 of the Copyright Act, 1911, the commencement of this Order shall be substituted for the 26th July 1910, in subsection 1 (b).

2. This Order shall apply to all His Majesty's Dominions, Colonies and Possessions, with the exception of those hereinafter named, that is to say—

The Dominion of Canada.
The Commonwealth of Australia.
The Dominion of New Zealand.
The Union of South Africa.
Newfoundland.

3. This Order shall come into operation on the 1st day of January 1915, which day is in this Order referred to as the commencement of this Order.

And the Lords Commissioners of His Majesty's Treasury are to give the necessary orders accordingly.

Almeric FitzRoy.

AUSTRIA-HUNGARY

ORDER IN COUNCIL UNDER THE COPYRIGHT ACT, 1911
(1 & 2 GEO. V, C. 46), REGULATING COPYRIGHT RELATIONS WITH AUSTRIA-HUNGARY.

(Statutory Rules and Orders, 1912, No. 914)

At the Court at Buckingham Palace, the 24th day of June
1912

Present,

The King's Most Excellent Majesty in Council.

WHEREAS on the 24th day of April 1893, a Convention, set out in the First Schedule to this Order, with respect to the protection to be given by way of copyright to the authors of literary and artistic works was concluded between Her late Majesty Queen Victoria and His Majesty the Emperor of Austria, King of Bohemia and Apostolic King of Hungary, and the ratifications of the said Convention were exchanged on the 14th day of April 1894, between Her late Majesty Queen Victoria and His Majesty the Emperor :

And whereas by the Orders in Council mentioned in the Second Schedule to this Order and made under the authority of the International Copyright Acts, 1844 to 1886, effect was given to the said Convention throughout

His Majesty's dominions except in the Dominion of Canada, the Cape, New South Wales, and Tasmania :

And whereas by the Copyright Act, 1911, the said International Copyright Acts, 1844 to 1866, are repealed, as from the date of the commencement of the said Copyright Act, 1911, in the parts of His Majesty's dominions to which the said Act extends :

And whereas by the said Copyright Act, 1911, authority is conferred upon His Majesty to extend by Order in Council the protection of the said Act to certain classes of foreign works within any part of His Majesty's dominions, other than self-governing dominions, to which the said Act extends :

And whereas it is expedient to continue the protection granted by the Orders in Council mentioned in the Second Schedule to this Order :

Now, therefore, His Majesty, by and with the advice of His Privy Council, and by virtue of the authority conferred upon Him by the Copyright Act, 1911, is pleased to order, and it is hereby ordered as follows :

1. The Copyright Act, 1911, including the provisions as to existing works, shall subject to the provisions of the said Act and of this Order apply—

- (a) To works first published in the Austro-Hungarian Monarchy in like manner as if they had been first published within the parts of His Majesty's dominions to which the said Act extends ;
- (b) To literary, dramatic, musical and artistic works, the authors whereof were at the time of the making of the work subjects of the Austro-Hungarian Monarchy in like manner as if the authors had been British subjects ;
- (c) In respect of residence in the Austro-Hungarian Monarchy in like manner as if such residence had been residence in the parts of His Majesty's dominions to which the said Act extends.

Provided that—

- (i) The term of copyright within the parts of His Majesty's dominions to which this Order applies shall not

exceed that conferred by the law of the Austro-Hungarian Monarchy ;

- (ii) The enjoyment of the rights conferred by the Copyright Act, 1911, shall be subject to the accomplishment of the following conditions and formalities, that is to say :

(a) In the case of any literary or dramatic work the right after the expiration of 10 years from the end of the year in which the work or in the case of a book published in numbers each number of the work was first published to prevent the production reproduction performance in public or publication of any English translation of the work shall be conditional upon the publication before the expiration of the above-mentioned period of an authorized English translation of the work or of each number of the work ;

(b) In the case of any work first published in the Austro-Hungarian Monarchy the entire rights conferred by the Copyright Act, 1911, shall be conditional upon the accomplishment of the conditions and formalities prescribed by law in that part of the Monarchy in which the work was first published.

2. In the case of any musical work to which this Order applies and which has been published before the commencement of the Copyright Act, 1911, copyright in the work shall include all rights conferred by the said Act with respect to the making of records, perforated rolls, and other contrivances by means of which the work may be mechanically performed.

3. This Order shall apply to all His Majesty's dominions, colonies, and possessions, excepting to those hereinafter mentioned ; that is to say, except to—

The Dominion of Canada,
The Commonwealth of Australia,
The Dominion of New Zealand,
The Union of South Africa,
Newfoundland.

4. The Orders mentioned in the Second Schedule to this Order are hereby revoked as from the date of the commencement of the Copyright Act, 1911, so far as regards the parts of His Majesty's dominions to which this Order applies.

Provided that neither such revocation nor anything else in this Order shall prejudicially affect any right acquired or accrued before the commencement of this Order by virtue of any Order hereby revoked, and any person entitled to such right shall continue entitled thereto, and to the remedies for the same, in like manner as if this Order had not been made.

5. This Order shall be construed as if it formed part of the Copyright Act, 1911.

6. This Order shall come into operation in the United Kingdom on the 1st day of July 1912 and in any other part of His Majesty's dominions to which this Order applies, on the day on which the Copyright Act, 1911, comes into operation in such part; which day is in this Order referred to as the commencement of this Order.

And the Lords Commissioners of His Majesty's Treasury are to give the necessary orders accordingly.

Almeric FitzRoy.

First Schedule.

CONVENTION.

Convention for securing the rights of authors, or their legal representatives over their literary or artistic works; made on the 24th day of April 1893, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Majesty the Emperor of Austria, King of Bohemia, and Apostolic King of Hungary.

[The following is the English text of Convention, omitting the formal beginning and end.]

ARTICLE I.

Authors of literary or artistic works and their legal representatives, including publishers, shall enjoy reciprocally in the dominions of the

high contracting parties, the advantages which are or may be granted by law there for the protection of works of literature or art.

Consequently, authors of literary or artistic works which have been first published in the dominions of one of the high contracting parties, as well as their legal representatives, shall have in the dominions of the other high contracting party the same protection and the same legal remedy against all infringement of their rights as if the work had been first published in the country where the infringement may have taken place.

In the same manner, the authors of literary or artistic works, and their legal representatives, who are subjects of one of the high contracting parties, or who reside within its dominions, shall in the dominions of the other contracting party enjoy the same protection and the same legal remedies against all infringements of their rights as though they were subjects of or residents in the State in which the infringement may have taken place.

These advantages shall only be reciprocally guaranteed to authors and their legal representatives when the work in question is also protected by the laws of the State where the work was first published, and the duration of protection in the other country shall not exceed that which is granted to authors and their legal representatives in the country where the work was first published.

ARTICLE II.

The right of translation forming part of the copyright, the protection of the right of translation is assured under the conditions laid down by this convention. If ten years after the expiry of the year in which a work to be protected in Her Majesty's dominions on the basis of this convention has appeared, no translation in English has been published, the right of translating the work into English shall no longer within those dominions exclusively belong to the author.

In the case of a book published in numbers, the aforesaid period of ten years shall commence at the end of the year in which each number is published.

ARTICLE III.

Authorized translations are protected as original works. They consequently enjoy the full protection granted by this convention against the unauthorized reproduction of original works.

It is understood that in the case of a work for which the translating right has fallen into the public domain, the translator cannot oppose the translation of the same work by other writers.

ARTICLE IV.

The expression 'literary or artistic works' comprehends books, pamphlets, and all other writings; dramatic or dramatico-musical works, musical compositions, with or without words; works of design, painting, sculpture, and engraving, lithographs, illustrations, geographical charts, plans, sketches, and plastic works relating to geography, topography, architecture or science, in general; in fact, every production whatsoever in the literary, scientific, or artistic domain which can be published by any mode of impression or reproduction.

ARTICLE V.

In the British Empire, and in the Kingdoms and States represented in the Austrian Reichsrath, the enjoyment of the rights secured by the present convention is subject only to the accomplishment of the conditions and formalities prescribed by the law of that State in which the work is first published; and no further formalities or conditions shall be required in the other country.

Consequently, it shall not be necessary that a work which has obtained legal protection in one country should be registered, or copies thereof deposited in the other country, in order that the remedies against infringement may be obtained which are granted in the other country to works first published there.

In the dominions of the Hungarian Crown the enjoyment of these rights is subject, however, to the accomplishment of the conditions and formalities prescribed by the laws and regulations both of Great Britain and of Hungary.

ARTICLE VI.

In order that the authors of works protected by the present convention shall, in the absence of proof to the contrary, be considered as such, and be, consequently, admitted to institute proceedings in respect of the infringement of copyright before the Courts of the other State, it will suffice that their name be indicated on the work in the accustomed manner.

The Tribunals may, however, in cases of doubt, require the production of such further evidence as may be required by the laws of the respective countries.

For anonymous or pseudonymous works, the publisher whose name is indicated on the work is entitled to protect the rights belonging to the author. He is, without other proof, reputed the legal representative of the anonymous or pseudonymous author, until the latter or his legal representative has declared and proved his rights.

ARTICLE VII.

The provisions of the present convention cannot in any way derogate from the right of each of the high contracting parties to control, or to prohibit by measures of domestic legislation or police, the circulation, representation, exhibition, or sale of any work or production.

Each of the high contracting parties reserves also its right to prohibit the importation into its own territory of works which, according to its internal laws, or to the stipulations of treaties with other States, are or may be declared to be illicit reproductions.

ARTICLE VIII.

The provisions of the present convention shall be applied to literature or artistic works produced prior to the date of its coming into effect, subject, however, to the limitations prescribed by the following regulations :—

(a) In the Austro-Hungary (*sic*) Monarchy—

Copies completed before the coming into force of the present convention, the production of which has been hitherto allowed, can be circulated in future.

In the same manner, appliances for the reproduction of works, such as stereotypes, wood-blocks, and engraved plates of every description, such as lithographers' stones, if their production has not hitherto been prohibited, may continue to be used during a period of four years from the coming into force of the present convention.

The distribution of such copies, and the use of the said appliances is, however, only permitted if an inventory of the said copies and appliances is taken by the government in question, in consequence of an application of the interested party, within three months from the coming into force of the present convention, and if these copies and appliances are marked with a special stamp.

Dramatic and dramatico-musical works, or musical compositions legally performed before the coming into force of the present convention, can also be performed in the future.

(b) In the United Kingdom of Great Britain and Ireland—

The author and publisher of any literary or artistic work first produced before the date (*sic*) at which this convention comes into effect shall be entitled to all legal remedies against infringement ; provided that where any person has, before the date of the publication of the Order in Council putting this convention into effect, lawfully produced any

work in the United Kingdom any rights or interests arising from or in connexion with such production, which are subsisting and valuable at the said date shall not be diminished or prejudiced.

ARTICLE IX.

The provisions of the present convention shall apply to all the colonies and foreign possessions of Her Britannic Majesty, excepting to those hereinafter named ; that is to say, except to—

India.	Victoria.
The Dominion of Canada.	Queensland.
Newfoundland.	Tasmania.
The Cape.	South Australia.
Natal.	Western Australia.
New South Wales.	New Zealand.

Provided always that the provisions of the present conventions shall apply to any of the above-named colonies or foreign possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's representative at the Court of His Imperial and Royal Apostolic Majesty within two years from the date of the exchange of ratifications of the present convention.

ARTICLE X.

The present convention shall remain in force for ten years from the day on which the ratifications are exchanged ; and in case neither of the two high contracting parties shall have given notice twelve months before the expiration of the said period of ten years of their intention of terminating the present convention, it shall remain in force until the expiration of one year from the day on which either of the high contracting parties shall have given such notice.

Her Britannic Majesty's Government shall also have the right to denounce the convention in the same manner, on behalf of any of the colonies or foreign possessions mentioned in Article IX separately.

ARTICLE XI.

The present convention shall be ratified, and the ratifications shall be exchanged at Vienna as soon as possible. It shall come into effect ten days after its publication in conformity with the forms prescribed by the laws of the high contracting parties respectively.

Second Schedule.

Orders in Council, of the dates named below, for securing the privileges of copyright in His Majesty's Dominions to authors of literary and artistic works first produced in the Austro-Hungarian Monarchy, namely :—

April 30th, 1894.

February 2nd, 1895.

May 11th, 1895.

CROWN COPYRIGHT

TREASURY MINUTE DATED 28TH JUNE, 1912

MY Lords read Section 18 of the Copyright Act, 1911 (1 & 2 Geo. V, ch. 46), which enacts that—

‘ Without prejudice to any rights or privileges of the Crown, where any work has, whether before or after the commencement of this Act, been prepared or published by or under the direction or control of His Majesty or any Government department, the copyright in the work shall, subject to any agreement with the author, belong to His Majesty, and in such case shall continue for a period of fifty years from the date of the first publication of the work.’

The above statutory provision renders it necessary to reconsider the Treasury Minute of the 31st August, 1887 (presented to the House of Commons No. 335 of 1887), and to define anew the practice to be followed with regard to Crown Copyright.

The Treasury Minute divided Government publications into the following classes :

1. Reports of Select Committees of the two Houses of Parliament, or of Royal Commissions.
2. Papers required by Statute to be laid before Parliament, e.g. Orders in Council, Rules made by Government Departments, Accounts, Reports of Government Inspectors.
3. Papers laid before Parliament by Command, e.g.

Treaties, Diplomatic Correspondence, Reports from Consuls and Secretaries of Legation, Reports of Inquiries into Explosions or Accidents, and other Special Reports made to Government Departments.

4. Acts of Parliament.

5. Official books, e.g. King's Regulations for the Army or Navy.

6. Literary or quasi-literary works, e.g. the Reports of the *Challenger* Expedition, the Rolls Publications, the State Trials, the *Board of Trade Journal*.

7. Charts and Ordnance Maps.

A considerable and increasing number of Government works fall into the three last classes above set forth, and My Lords see no reason why such works—often produced at considerable cost—should be reproduced by private enterprise for the benefit of individual publishers. For the future, publications which fall within this description will bear an indication on the title-page that the Crown Copyright is reserved. The Controller of the Stationery Office will act on a notification by the Department responsible for the production of the work that it is desired that Crown Copyright should be expressly reserved, subject to reference to Their Lordships in case of doubt. Any infringement of copyright in these cases should be brought to the notice of the Controller of the Stationery Office by the Heads of Departments, so far as works prepared or published by or under their direction are concerned.

The Controller of the Stationery Office will refer to this Board for instructions as to whether any infringement of Crown Copyright shall be made the subject of legal proceedings.

The publications which fall into the first four classes are issued for the use and information of the public, and it is desirable that the knowledge of their contents should be diffused as widely as possible. In the case of these publications no steps will ordinarily be taken to enforce the rights of the Crown in respect of copyright. The rights of the Crown will not, however, lapse, and should exceptional circumstances appear to justify such a course it

will be possible to assert them. In such a case, the Department concerned should acquaint the Controller of the Stationery Office as early as possible of the special circumstances which render it desirable to depart from the general rule permitting full and free reproduction of works in these categories, and the Controller will, subject to the direction of Their Lordships, take such measures as may seem appropriate to enforce the right of the Crown.

Acts of Parliament must not, except when published under the authority of the Government, purport on the face of them to be published by authority.

SUPPLEMENT TO APPENDIX II

(INTERNATIONAL CONVENTIONS)

ADDITIONAL PROTOCOL TO THE BERLIN CONVENTION, 1908. DATED MARCH 20, 1914.

LES Pays membres de l'Union internationale pour la protection des œuvres littéraires et artistiques, désirant autoriser une limitation facultative de la portée de la Convention du 13 novembre 1908, ont, d'un commun accord, arrêté le Protocole suivant :

1. Lorsqu'un pays étranger à l'Union ne protège pas d'une manière suffisante les œuvres des auteurs ressortissant à l'un des pays de l'Union, les dispositions de la Convention du 13 novembre 1908 ne peuvent porter préjudice, en quoi que ce soit, au droit qui appartient au pays contractant de restreindre la protection des œuvres dont les auteurs sont, au moment de la première publication de ces œuvres, sujets ou citoyens dudit pays étranger et ne sont pas domiciliés effectivement dans l'un des pays de l'Union.

2. Le droit accordé aux Etats contractants par le présent Protocole appartient

The countries, members of the International Union for the protection of literary and artistic works, desiring to authorize an optional limitation of the extent of the Convention of November 13, 1908, have by mutual agreement adopted the following Protocol :

1. When a country not belonging to the Union does not protect in a sufficient manner the works of authors belonging to one of the countries of the Union, the provisions of the convention of November 13, 1908, cannot prejudice, in any way, the right which belongs to the contracting countries to restrict the protection of works the authors of which are, at the time of the first publication of such works, subjects or citizens of the said country which does not belong to the Union, and are not actually domiciled in one of the countries of the Union.

2. The right accorded to the contracting States by the present Protocol, be-

également à chacune de leurs Possessions d'outre-mer.

3. Aucune restriction établie en vertu du no. 1 ci-dessus ne devra porter préjudice aux droits qu'un auteur aura acquis sur une œuvre publiée dans un pays de l'Union avant la mise à exécution de cette restriction.

4. Les Etats qui, en vertu du présent Protocole, restreindront la protection des droits des auteurs, le notifieront au Gouvernement de la Confédération Suisse par une déclaration écrite où seront indiqués les pays vis-à-vis desquels la protection est restreinte, de même que les restrictions auxquelles les droits des auteurs ressortissant à ces pays sont soumis. Le Gouvernement de la Confédération Suisse communiquera aussitôt le fait à tous les autres Etats de l'Union,

5. Le présent Protocole sera ratifié, et les ratifications seront déposées à Berne dans un délai maximum de douze mois comptés à partir de sa date. Il entrera en vigueur un mois après l'expiration de ce délai, et aura même force et durée que la Convention à laquelle il se rapporte.

En foi de quoi, les Plénipotentiaires des Pays membres de l'Union ont signé le

longs also to each of their transmarine possessions.

3. No restriction established by virtue of No. 1 above shall prejudice the rights which an author has acquired in a work published in one of the countries of the Union before the putting into force of this restriction.

4. The countries which, by virtue of the present Protocol, shall limit the protection of the rights of authors, shall notify the fact to the Government of the Swiss Confederation by a written declaration indicating the countries in respect of which the protection is restricted, and also the restrictions to which the rights of authors within the jurisdiction of those countries are subject. The Government of the Swiss Confederation will at once communicate the fact to all the other States of the Union.

5. The present Protocol shall be ratified, and the ratifications shall be deposited at Berne within a maximum period of twelve months from its date. It shall come into force one month after the expiration of this period, and shall have the same force and duration as the Convention to which it relates.

In witness whereof the Plenipotentiaries of the countries which are mem-

présent Protocole, dont une copie certifiée sera remise à chacun des Gouvernements unionistes.

Fait à Berne, le 20 mars 1914, en un seul exemplaire, déposé aux Archives de la Confédération Suisse.

[Signatures]

bers of the Union have signed the present Protocol, of which a certified copy shall be transmitted to each of the Governments of the Union.

Done at Berne, the 20th day of March, 1914, in a single copy, deposited in the Archives of the Swiss Confederation.

Signed by the representatives of the following eighteen countries : Belgium, Denmark, France, Germany, Great Britain, Hayti, Italy, Japan, Liberia, Luxemburg, Monaco, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and Tunis.

PROCÈS-VERBAL DE SIGNATURE.

LES Plénipotentiaires sous-signés, à ce dûment autorisés, se sont réunis ce jour à l'effet de procéder à la signature du Protocole additionnel à la Convention de Berne révisée pour la protection des œuvres littéraires et artistiques, du 13 novembre 1908, et ils ont pris connaissance de la Déclaration suivante, lue par M. le Plénipotentiaire de la Suède :

‘Le Gouvernement du Roi, n’ayant pas encore ratifié la Convention de Berne révisée du 13 novembre 1908, signe le Protocole additionnel à ladite Convention en formulant la réserve que la ratification du Protocole

RECORD MADE ON SIGNING.

THE undersigned Plenipotentiaries, duly authorized in that behalf, have assembled this day in order to proceed to the signing of the Additional Protocol to the Revised Convention of Berne for the protection of literary and artistic works of November 13, 1908, and they have taken note of the following declaration, read by the Plenipotentiary of Sweden :

The King’s Government, not having yet ratified the Revised Convention of Berne of November 13, 1908, signs the Additional Protocol to the said Convention with the reservation that the ratification of the Protocol

ne pourra avoir lieu qu'avec celle de la Convention.'

En foi de quoi, les Plénipotentiaires respectifs ont signé le présent Procès-verbal.

Fait à Berne, le vingtième jour du mois de mars de l'an mil neuf cent quatorze.

[*Signatures.*]

can only take place with the ratification of the Convention.

In witness whereof the respective Plenipotentiaries have signed the present record.

Done at Berne, the 20th day of March, 1914.

[*Signatures.*]

SUPPLEMENT TO APPENDIX III

(UNITED STATES LAW)

AMENDMENTS TO THE COPYRIGHT ACT OF MARCH 4, 1909.

PAGE 285, LINE 3. This Act has been amended by Acts of August 24, 1912, March 2, 1913, and March 28, 1914, and applied by an Act of September 18, 1913. The amendments are set out in the Supplement, pp. 76 *et seq.*

PAGE 288, LINE 8, *add* the following (Act of August 24, 1912) :

- (l) Motion-picture photoplays.
- (m) Motion pictures other than photoplays.

[NOTE.—The new Copyright Law approved March 4, 1909, going into effect on July 1, 1909, did not repeal the Copyright Act of June 18, 1874, according to the opinion of the Attorney-General, of December 22, 1909. Labels or prints designed to be used for articles of manufacture should therefore be registered in the Patent Office.

Section 3 of the Act of June 18, 1874, reads as follows :

SEC. 3. That in the construction of this Act the words 'engraving, cut, and print' shall be applied only to pictorial illustrations or works connected with the fine arts, and no prints or labels designed to be used for any other articles of manufacture shall be entered under the Copyright Law, but may be registered in the Patent Office. And the Commissioner of Patents is hereby charged with the supervision and control of the entry or registry of such prints or labels, in conformity with the regulations provided by law as to copyright of prints, except that there shall be paid for recording the title of any print or label, not a trade-mark, six dollars, which shall cover the expense of furnishing a copy of the record, under the seal of the Commissioner of Patents, to the party entering the same.]

PAGE 289, NOTE (a), *add* ' the Table of Residential Pro-

clamations and the proclamation printed in the Supplement, pp. 83 and 85 respectively.'

PAGE 290, LINE 1, *substitute* for section 11 the following (Act of August 24, 1912) :

SEC. 11. That copyright may also be had of the works of an author, of which copies are not reproduced for sale, by the deposit, with claim of copyright, of one complete copy of such work if it be a lecture or similar production or a dramatic, musical, or dramatico-musical composition ; of a title and description, with one print taken from each scene or act, if the work be a motion-picture photoplay ; of a photographic print if the work be a photograph ; of a title and description, with not less than two prints taken from different sections of a complete motion picture, if the work be a motion picture other than a photoplay ; or of a photograph or other identifying reproduction thereof, if it be a work of art or a plastic work or drawing. But the privilege of registration of copyright secured hereunder shall not exempt the copyright proprietor from the deposit of copies, under sections twelve and thirteen of this Act, where the work is later reproduced in copies for sale.

Copy-right protection of unpublished works : lectures, dramas, music, &c.

Deposit of copies after publication.

PAGE 290, LINE 19, *add* (Act of March 28, 1914) after 'published' : or if the work is by an author who is a citizen or subject of a foreign state or nation and has been published in a foreign country, one complete copy of the best edition then published in such foreign country ; and after 'copies' : or copy.

PAGE 293, LINE 9. The Act of June 18, 1874, provides that the notice of copyright to be inscribed on each copy of a copyrighted work shall consist of the following words :

'Entered according to Act of Congress, in the year —, by A. B., in the office of the Librarian of Congress, at Washington' ; or, . . . the word 'Copyright', together with the year the copyright was entered, and the name of the party by whom it was taken out, thus : 'Copyright, 18—, by A. B.'

PAGE 295, LINE 26—PAGE 296, LINE 7. *Substitute* for

Section 25, down to 'shall not be regarded as a penalty', the following (Act of August 24, 1912) :

Infringe- ment of copyright.	SEC. 25. That if any person shall infringe the copyright in any work protected under the copyright laws of the United States such person shall be liable :
Injunc- tion.	(a) To an injunction restraining such infringement ;
Damages.	(b) To pay to the copyright proprietor such damages as the copyright proprietor may have suffered due to the infringement, as well as all the profits which the infringer shall have made from such infringement, and in proving profits the plaintiff shall be required to prove sales only and the defendant shall be required to prove every element of cost which he claims, or in lieu of actual damages and profits such damages as to the court shall appear to be just, and in assessing such damages the court may, in its discretion, allow the amounts as hereinafter stated, but in case of a newspaper reproduction of a copyrighted photograph such damages shall not exceed the sum of two hundred dollars nor be less than the sum of fifty dollars, and in the case of the infringement of an undramatized or non-dramatic work by means of motion pictures, where the infringer shall show that he was not aware that he was infringing, and that such infringement could not have been reasonably foreseen, such damages shall not exceed the sum of one hundred dollars ; and in the case of an infringement of a copyrighted dramatic or dramatico-musical work by a maker of motion pictures and his agencies for distribution thereof to exhibitors, where such infringer shows that he was not aware that he was infringing a copyrighted work, and that such infringements could not reasonably have been foreseen, the entire sum of such damages recoverable by the copyright proprietor from such infringing maker and his agencies for the distribution to exhibitors of such infringing motion picture shall not exceed the sum of five thousand dollars nor be less than two hundred and fifty dollars, and such damages shall in no other case exceed the sum of five thousand dollars nor be less than the sum of two hundred and fifty dollars, and shall not be regarded as a penalty. But the foregoing
Proving sales.	
News- paper reproduc- tion of photo- graph ; recovery, \$50-\$200.	
Infringe- ment by motion pictures. Undrama- tized or non- dramatic work, maximum damages, \$100.	
Dramatic work, maximum damages, \$5,000.	
Maximum recovery, \$5,000.	
Minimum recovery, \$250.	

exceptions shall not deprive the copyright proprietor of any other remedy given him under this law, nor shall the limitation as to the amount of recovery apply to infringements occurring after the actual notice to a defendant, either by service of process in a suit or other written notice served upon him.

PAGE 297, LINE 23. See the rules and regulations printed in the Supplement, p. 103.

PAGE 304, LINE 22. Substitute for section 55 the following (Act of March 2, 1913):

SEC. 55. That in the case of each entry the person recorded as the claimant of the copyright shall be entitled to a certificate of registration under seal of the copyright office, to contain the name and address of said claimant, the name of the country of which the author of the work is a citizen or subject, and when an alien author domiciled in the United States at the time of said registration, then a statement of that fact, including his place of domicile, the name of the author (when the records of the copyright office shall show the same), the title of the work which is registered for which copyright is claimed, the date of the deposit of the copies of such work, the date of publication if the work has been reproduced in copies for sale, or publicly distributed, and such marks as to class designation and entry number as shall fully identify the entry. In the case of a book, the certificate shall also state the receipt of the affidavit, as provided by section sixteen of this Act, and the date of the completion of the printing, or the date of the publication of the book, as stated in the said affidavit. The register of copyrights shall prepare a printed form for the said certificate, to be filled out in each case as above provided for in the case of all registrations made after this Act goes into effect, and in the case of all previous registrations so far as the copyright office record books shall show such facts, which certificate, sealed with the seal of the copyright office, shall, upon payment of the prescribed fee, be given to any person making application for the same. Said certificate shall be admitted in any

Certificate
of regis-
tration.

Nation-
ality of
author.

Certificate
for book
to state
receipt of
affidavit.

Certificate
may be
given to
any
person.

Receipt
for copies
deposited.

court as prima facie evidence of the facts stated therein. In addition to such certificate the register of copyrights shall furnish, upon request, without additional fee, a receipt for the copies of the work deposited to complete the registration.

PAGE 304, NOTE (c). See now the revised rules and regulations printed in the Supplement, p. 87, which replace those printed, p. 309 *post*.

PANAMA-PACIFIC INTERNATIONAL EXPOSITION.

AN ACT

Providing for the free importation of articles intended for foreign buildings and exhibits at the Panama-Pacific International Exposition, and for the protection of foreign exhibitors.

Articles
admitted
free of
duty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all articles that shall be imported from foreign countries for the purpose of exhibition, and articles and material imported solely for use in constructing, installing, and maintaining foreign buildings and exhibits at the Panama-Pacific International Exposition upon which there shall be a tariff or customs duty shall be admitted free of the payment of duty, customs fees, or charges, under such regulations as the Secretary of the Treasury shall prescribe; but it shall be lawful at any time during the exposition to sell for delivery at the discretion of the exposition company any goods or property imported for and actually on exhibition in the exposition buildings or grounds, subject to such regulations for the security of the revenue and for the collection of import duties as the Secretary of the Treasury may prescribe: *Provided,* That all such articles when sold or withdrawn for consumption or use in the United States shall be subject to the duty, if any, imposed upon such articles by the revenue laws in force at the date of withdrawal; and on such articles as shall have suffered diminution or deterioration

Articles
subject to
import
duties if
sold.

from incidental handling and necessary exposure the duty, if paid, shall be assessed according to the appraised value at the time of withdrawal for consumption or use, and the penalties prescribed by law shall be enforced against any person guilty of illegal sale, use, or withdrawal.

SEC. 2. That the Librarian of Congress and the Commissioner of Patents are hereby authorized and directed to establish a branch office under the direction of the Register of Copyrights and the Commissioner of Patents at the Panama-Pacific International Exposition, in suitable quarters to be furnished free of charge by the Panama-Pacific International Exposition Company, said office to be established not later than July 1st, nineteen hundred and fourteen, and maintained until the close of said exposition ; and the proprietor of any certificate of registration, copyright, trade-mark, or patent issued by any foreign Government protecting any pattern, model, design, copyright, trade-mark, or manufactured article imported for exhibition and exhibited at said Panama-Pacific International Exposition may, upon presentation of satisfactory proof of such proprietorship, obtain without charge a certificate from said branch office, which shall be legal evidence of such proprietorship ; and said branch office shall keep a register of all certificates of registration, trade-mark, or patent, and a register of all certificates of copyright issued, which shall be open to public inspection.

Branch
office for
registra-
tion of
patents
and copy-
rights.

Certificate
of regis-
tration.

At the close of said Panama-Pacific International Exposition the register of certificates of registration, trade-mark, or patent shall be deposited in the United States Patent Office at Washington, District of Columbia, and the register of certificates of copyright shall be deposited in the Copyright Office of the Library of Congress at Washington, District of Columbia.

Transfer
of records
to Wash-
ington.

SEC. 3. That it shall be unlawful for any person without authority of the proprietor thereof to copy, imitate, reproduce, or republish any pattern, model, design, trade-mark, copyright, or manufactured article protected by the laws of any foreign country by registration, copyright, patent, or otherwise, which shall be imported for exhibition at the

Infringe-
ment of
copy-
right.

Panama-Pacific International Exposition, and there exhibited; and any person who shall infringe the rights protected under this Act shall be liable—

Injunction.
Damages.

(a) To an injunction restraining such infringement;

(b) To pay to the proprietor such damages as the proprietor may have suffered due to the infringement, as well as all the profits which the infringer may have made from such infringement, and in proving profits the plaintiff shall be required to prove sales only and the defendant shall be required to prove every element of cost which he claims, or in lieu of actual damages and profits such damages as to the court shall appear to be just;

Proving sales.

Delivering up infringing articles.

(c) To deliver up on oath, to be impounded during the pendency of the action, upon such terms and conditions as the court may prescribe, all articles alleged to infringe the rights herein protected;

Destruction of infringing articles, &c.
Penalty for willful infringement.

(d) To deliver up on oath for destruction all the infringing articles, as well as all means and devices for making such infringing articles.

SEC. 4. That any person who willfully and for profit shall infringe any right protected under this Act, or who shall knowingly and willfully aid or abet such infringement shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment for not exceeding one year or by a fine of not less than \$100 nor more than \$1,000, or both, in the discretion of the court.

Secs. 25–27, 34–40, Act of 1909, jurisdiction in copyright suits.
Duration of protection.

SEC. 5. That sections 25, 26, 27, 34, 35, 36, 37, 38, 39, and 40 of the Copyright Act approved March 4, 1909, are hereby made applicable to civil actions authorized to be brought under the provisions of this Act.

SEC. 6. That the rights protected under the provisions of this Act shall begin on the date of the arrival of the pattern, model, design, copyrighted article, trade-mark, or manufactured article so imported for exhibition within the grounds of the Panama-Pacific International Exposition at San Francisco, and shall continue for a period of three years from the date of the closing of said exposition.

Approved, September 18, 1913.

TABLE OF PRESIDENTIAL PROCLAMATIONS.

THE following proclamations have been issued by the President, by which copyright protection is granted in the United States to works of authors who are citizens or subjects of the countries named. It is to be noted that this protection does not include 'copyright controlling the parts of instruments serving to reproduce mechanically the musical work' provided in Sec. 1 (e) of the Act of March 4, 1909, except in the case of the countries named below, viz. Belgium, Cuba, Germany, Great Britain, Hungary, Italy, Luxemburg, and Norway.

July 1, 1891—Belgium, France, Great Britain and the British possessions, and Switzerland. (Stat. L., vol. 27, pp. 981-982.)

April 15, 1892—Germany. (Stat. L., vol. 27, pp. 1021-1022.)

October 31, 1892—Italy. (Stat. L., vol. 27, p. 1043.)

May, 8, 1893—Denmark. (Stat. L., vol. 28, p. 1219.)

July 20, 1893—Portugal. (Stat. L., vol. 28, p. 1222.)

July 10, 1895—Spain. (Stat. L., vol. 29, p. 871.)

February 27, 1896—Mexico. (Stat. L., vol. 29, p. 877.)

May 25, 1896—Chile. (Stat. L., vol. 29, p. 880.)

October 19, 1899—Costa Rica. (Stat. L., vol. 31, pp. 1955-1956.)

November 20, 1899—Netherlands and possessions. (Stat. L., vol. 31, p. 1961.)

November 17, 1903—Cuba. (Stat. L., vol. 33, pt. 2, p. 2324.)

January 13, 1904—China. (Treaty of October 8, 1903, Article XI.) (Stat. L., vol. 33, pt. 2, pp. 2208, 2213, 2214.)

July 1, 1905—Norway. (Stat. L., vol. 34, pt. 3, pp. 3111-3112.)

May 17, 1906—Japan. (Treaty of November 10, 1905.) (Stat. L., vol. 34, pt. 3, pp. 2890-2891.)

September 20, 1907—Austria. (Stat. L., vol. 35, pt. 2, p. 2155.)

April 9, 1908—Convention between the United States and other powers on literary and artistic copyrights, signed

at the City of Mexico, January 27, 1902. (This treaty is effective from July 1, 1908, as between the United States and the following countries : Guatemala, Salvador, Costa Rica, Honduras, and Nicaragua.) (Stat. L., vol. 35, pt. 2, pp. 1934-1946. English, French, and Spanish texts.)

August 11, 1908—Japan. (Treaty of May 19, 1908, for protection in China.) (Stat. L., vol. 35, pt. 2, pp. 2044-2046.)

August 11, 1908—Japan. (Treaty of May 19, 1908, for protection in Korea.) (Stat. L., vol. 35, pt. 2, pp. 2041-2043.)

April 9, 1910—Austria, Belgium, Chile, Costa Rica, Cuba, Denmark, France, Germany, Great Britain and her possessions, Italy, Mexico, the Netherlands and possessions, Norway, Portugal, Spain, and Switzerland. (Stat. L., vol. 36, pt. 2, pp. 2685-2686.)

June 29, 1910—Luxemburg. (Stat. L., vol. 36, pt. 2, p. 2716.)

May 26, 1911—Sweden. (Effective June 1, 1911.) (Stat. L., vol. 37, pt. 2, pp. 1682-1683.)

October 4, 1912—Tunis. (Stat. L., vol. 37, pt. 2, p. 1765.)

October 15, 1912—Hungary. (Copyright convention between the United States and Hungary, effective October 16, 1912, including protection under Sec. 1 (e).) (Stat. L., vol. 37, pt. 2, pp. 1631-1633.)

July 13, 1914—Convention between the United States and other powers on literary and artistic copyright, signed at Buenos Aires, August 11, 1910. (Effective from July 13, 1914, as between the U.S. and the Dominican Republic, Honduras, Panama, Nicaragua, and Ecuador.)

PRESIDENTIAL PROCLAMATIONS UNDER SECTION 1 (e).

December 8, 1910—Germany. (Stat. L., vol. 36, pt. 2, pp. 2761-2762.)

June 14, 1911—Belgium, Luxemburg, and Norway. (Stat. L., vol. 37, pt. 2, pp. 1687-1690.)

November 27, 1911—Cuba. (Stat. L., vol. 37, pt. 2, pp. 1721-1722.)

October 15, 1912—Hungary. (See above.)

January 1, 1915—Great Britain.

May 1, 1915—Italy.

COPYRIGHT—GREAT BRITAIN

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

WHEREAS it is provided by the Act of Congress of March 4, 1909, entitled 'An Act to Amend and Consolidate the Acts Respecting Copyright', that the provisions of said Act, 'so far as they secure copyright controlling the parts of instruments serving to reproduce mechanically the musical work, shall include only compositions published and copyrighted after this Act goes into effect, and shall not include the works of a foreign author or composer unless the foreign state or nation of which such author or composer is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States similar rights':

And whereas it is further provided that the copyright secured by the Act shall extend to the work of an author or proprietor who is a citizen or subject of a foreign state or nation, only upon certain conditions set forth in section 8 of said Act, to wit:

(a) When an alien author or proprietor shall be domiciled within the United States at the time of the first publication of his work; or

(b) When the foreign state or nation of which such author or proprietor is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens, or copyright protection substantially equal to the protection secured to such foreign author under this Act or by treaty; or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States may, at its pleasure, become a party thereto:

And whereas it is also provided by said section that 'The existence of the reciprocal conditions aforesaid shall

U. S.
copyright
act of
March 4,
1909.

Sec. 1 (e),
Control of
mechanical
musical
reproduction.

Sec. 8,
Foreign
authors
who may
secure
protection.

Alien
author
domiciled
in U. S.

Countries
granting
reciprocal
rights.

Inter-
national
agreement.

Proclamation
of the
President.

be determined by the President of the United States, by proclamation made from time to time as the purposes of this Act may require ' :

British
Order in
Council
issued.

And whereas satisfactory official assurance has been given that, by virtue of the authority conferred by the British Copyright Act, 1911, a British Order in Council has been issued of even date with this Proclamation directing :—

British
copyright
act, 1911.

1. That ' the Copyright Act, 1911, including the provisions as to existing works, shall, subject to the provisions of the said Act and of this Order, apply—

Subject
matter of
copyright.

(a) to literary, dramatic, musical and artistic works the authors whereof were at the time of the making of the works citizens of the United States of America, in like manner as if the authors had been British subjects :

Residence.

(b) in respect of residence in the United States of America, in like manner as if such residence had been residence in the parts of His Majesty's dominions to which the said Act extends.

Provided that—

Term of
copyright.

(i) the term of copyright within the parts of His Majesty's dominions to which this Order applies shall not exceed that conferred by the law of the United States of America :

Formali-
ties and
conditions.

(ii) the enjoyment of the rights conferred by this Order shall be subject to the accomplishment of the conditions and formalities prescribed by the law of the United States of America :

Existing
works.

(iii) in the application to existing works of the provisions of Section 24 of the Copyright Act, 1911, the commencement of this Order shall be substituted for the 26th July, 1910, in subsection 1 (b).'

Self-
governing
domi-
nions not
included
in this
Order.

2. That ' this Order shall apply to all His Majesty's dominions, colonies and possessions with the exception of those hereinafter named, that is to say :—The Dominion of Canada, The Commonwealth of Australia, The Dominion of New Zealand, The Union of South Africa, Newfoundland.'

3. That 'this Order shall come into operation on the first day of January 1915, which day is in this Order referred to as the commencement of this Order.

Date of effect, January 1, 1915.

And the Lords Commissioners of His Majesty's Treasury are to give the necessary Orders accordingly.'

Now, therefore, I, Woodrow Wilson, President of the United States of America, do declare and proclaim that one of the alternative conditions specified in section 8 (b) of the Act of March 4, 1909, now exists and is fulfilled in respect to the subjects of Great Britain and the British dominions, colonies and possessions, with the exception of Canada, Australia, New Zealand, South Africa, and Newfoundland, and that such subjects shall be entitled to all the benefits of section 1 (e) of the said Act, on and after January 1, 1915.

Proclamation.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Execution.

Done at the City of Washington this first day of January, in the year of our Lord one thousand nine hundred (Seal) and fifteen, and of the Independence of the United States of America the one hundred and thirty-ninth.

Date of proclamation.

WOODROW WILSON.

By the President :

W. J. BRYAN,
Secretary of State.

RULES AND REGULATIONS FOR THE REGISTRATION OF CLAIMS TO COPYRIGHT

(Copyright Office Bulletin No. 15, edition of 1914 (a).)

1. Copyright under the Act of Congress entitled : 'An Act to amend and consolidate the Acts respecting copyright', approved March 4, 1909 (b), is ordinarily secured by

Copyright under Act.

(a) Some additions have been made to the notes with regard to matters subsequent to the publication of these rules and regulations.—G. S. R.

(b) Amendatory Acts were approved August 24, 1912 (providing for the registration of motion pictures), March 2, 1913 (amending sec. 55, with regard to the certificate of registration), and March 28, 1914 (amending sec. 12, to provide for deposit of only one copy in case of works of foreign authors published abroad in foreign languages).

printing and publishing a copyrightable work with a notice of claim in the form prescribed by the statute. Registration can be made *after* such publication, but the statute expressly provides, in certain cases, for registration of manuscript works.

WHO MAY SECURE COPYRIGHT.

Persons
entitled
to copy-
right.

2. The persons entitled by the Act to copyright protection for their works are :

- (1) The *author* of the work, if he is :
 - (a) A citizen of the United States, or
 - (b) An alien author domiciled in the United States at the time of the first publication of his work, or
 - (c) A citizen or subject of any country which grants either by treaty, convention, agreement, or law, to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens. The existence of reciprocal copyright conditions is determined by presidential proclamation (c).

(2) The *proprietor* of a work. The word 'proprietor' is here used to indicate a person who derives his title to the work from the author. If the author of the work should be a person who could not himself claim the benefit of the Copyright Act, the proprietor cannot claim it.

(3) The *executors, administrators, or assigns* of the above-mentioned author or proprietor.

REGISTRATION.

Copy-
right
registra-
tion.

3. After the publication of any work entitled to copyright, the claimant of copyright should register his claim in the Copyright Office. An action for infringement of copyright

(c) Presidential copyright proclamations have been issued securing copyright privileges in the United States to the citizens or subjects of the following countries : Austria, Belgium, Chile, China, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, France, Germany, Great Britain and the British possessions, Guatemala, Honduras, Hungary, Italy, Japan, Luxemburg, Mexico, Netherlands (Holland) and possessions, Nicaragua, Norway, Panama, Portugal, Salvador, Spain, Sweden, Switzerland, and Tunis.

cannot be maintained in court until the provisions with respect to the deposit of copies and registration of such work shall have been complied with.

A certificate of registration is issued to the applicant and duplicates thereof may be obtained on payment of the statutory fee of 50 cents.

SUBJECT-MATTER OF COPYRIGHT.

4. The Act provides that no copyright shall subsist in the original text of any work published prior to July 1, 1909, which has not been already copyrighted in the United States (sec. 7). Works
subject
to copy-
right.

Section 5 of the Act divides the works for which copyright may be secured into eleven classes, as follows :

(a) *Books*.—This term includes all printed literary works (except dramatic compositions) whether published in the ordinary shape of a book or pamphlet, or printed as a leaflet, card, or single page. The term ‘book’ as used in the law includes tabulated forms of information, frequently called charts ; tables of figures showing the results of mathematical computations, such as logarithmic tables ; interest, cost, and wage tables, &c., single poems, and the words of a song when printed and published without music ; librettos ; descriptions of motion pictures or spectacles ; encyclopaedias ; catalogues ; directories ; gazetteers and similar compilations ; circulars or folders containing information in the form of reading matter other than mere lists of articles, names and addresses, and literary contributions to periodicals or newspapers.

5. The term ‘book’ cannot be applied to—

Blank books for use in business or in carrying out any system of transacting affairs, such as record books, account books, memorandum books, diaries or journals, bank deposit and cheque books ; forms of contracts or leases which do not contain original copyrightable matter ; coupons ; forms for use in commercial, legal, or financial transactions, which are wholly or partly blank and whose value lies in their usefulness and not in their merit as literary compositions. Blank
books,&c.,
not copy-
rightable.

Periodicals.

6. (b) *Periodicals*.—This term includes newspapers, magazines, reviews, and serial publications appearing oftener than once a year; bulletins or proceedings of societies, &c., which appear regularly at intervals of less than a year; and, generally, periodical publications which would be registered as second-class matter at the post office.

Lectures, &c.

7. (c) *Lectures, sermons, addresses*, or similar productions, prepared for oral delivery.

Dramatic compositions, &c.

8. (d) *Dramatic and dramatico-musical compositions*, such as dramas, comedies, operas, operettas, and similar works.

The designation 'dramatic composition' does not include the following: Dances, ballets, or other choregraphic works; tableaux and motion-picture shows; stage settings or mechanical devices by which dramatic effects are produced, or 'stage business'; animal shows, sleight-of-hand performances, acrobatic or circus tricks of any kind; descriptions of motion pictures or of settings for the production of motion pictures. (These, however, when printed and published, are registrable as 'books'.)

Dramatico-musical compositions, &c.
Songs separately published.

9. *Dramatico-musical compositions* include principally operas, operettas, and musical comedies, or similar productions which are to be acted as well as sung.

Ordinary songs, even when intended to be sung from the stage in a dramatic manner, or separately published songs from operas and operettas, should be registered as musical compositions, not dramatico-musical compositions.

Musical compositions.

10. (e) *Musical compositions*, including other vocal and all instrumental compositions, with or without words.

But when the text is printed alone it should be registered as a 'book', not as a 'musical composition'.

'Adaptations' and 'arrangements' may be registered as 'new works' under the provisions of section 6. Mere transpositions into different keys are not expressly provided for in the Copyright Act; but if published with copyright notice and copies are deposited with application, registration will be made.

Maps.

11. (f) *Maps*.—This term includes all cartographical works, such as terrestrial maps, plats, marine charts, star

maps, but not diagrams, astrological charts, landscapes, or drawings of imaginary regions which do not have a real existence.

12. (g) *Works of art*.—This term includes all works belonging fairly to the so-called fine arts. (Paintings, drawings, and sculpture.) Works of art.

Productions of the industrial arts utilitarian in purpose and character are not subject to copyright registration, even if artistically made or ornamented.

No copyright exists in toys, games, dolls, advertising novelties, instruments or tools of any kind, glassware, embroideries, garments, laces, woven fabrics, or any similar articles. Toys, games, &c.

13. (h) *Reproductions of works of art*.—This term refers to such reproductions (engravings, woodcuts, etchings, casts, &c.) as contain in themselves an artistic element distinct from that of the original work of art which has been reproduced. Reproductions of works of art.

14. (i) *Drawings or plastic works of a scientific or technical character*.—This term includes diagrams or models illustrating scientific or technical works, architects' plans, designs for engineering work, &c. Drawings or plastic works.

15. (j) *Photographs*.—This term covers all positive prints from photographic negatives, but not half-tones or other photo-engravings. Photographs.

16. (k) *Prints and pictorial illustrations*.—This term comprises all printed pictures not included in the various other classes enumerated above. Prints and pictorial illustrations.

17. (l) *Motion-picture photoplays*.

18. (m) *Motion pictures other than photoplays*.

Postal cards cannot be copyrighted as such. The pictures thereon may be registered as 'prints or pictorial illustrations' or as 'photographs'. Text matter on a postal card may be of such a character that it may be registered as a 'book'.

Trade-marks cannot be copyrighted nor registered in the Copyright Office.

HOW TO SECURE REGISTRATION.

Regis-
trable
works.

19. Copyright registration may be secured for :

- (1) Unpublished works.
- (2) Published works.

UNPUBLISHED WORKS.

Unpublished works are such as have not at the time of registration been printed or reproduced in copies for sale or been publicly distributed. They include : (a) Lectures, sermons, addresses, or similar productions for oral delivery ; (b) dramatic and musical compositions ; (c) photographic prints ; (d) works of art (paintings, drawings, and sculptures) ; (e) plastic works ; (f) motion-picture photoplays ; and (g) motion pictures other than photoplays.

Regis-
tration
of un-
published
works.

In order to secure copyright in such unpublished works, the following steps are necessary :

20. (1) In the case of lectures, sermons, addresses, and dramatic and musical compositions, deposit one type-written or manuscript copy of the work.

This copy should be in convenient form, clean and legible, the leaves securely fastened together, and should bear the title of the work corresponding to that given in the application.

The entire work in each case should be deposited. It is not sufficient to deposit a mere outline or epitome, or, in the case of a play, a mere scenario, or a scenario with the synopsis of the dialogue.

Un-
published
photo-
graph.

21. (2) In the case of photographs, deposit one copy of a positive print of the work. (Photo-engravings or photo-gravures are not photographs within the meaning of this provision.)

Photo-
graph of
work
of art.

22. (3) In the case of works of art, models or designs for works of art, or drawings or plastic works of a scientific or technical character, deposit a photograph or other identifying reproduction.

Motion
pictures.

(4) In the case of motion-picture photoplays, deposit a title and description, with one print taken from each scene or act.

(5) In the case of motion pictures other than photo-plays, deposit a title and description, with not less than two prints taken from different sections of the complete motion picture.

In each case the deposited article should be accompanied by an application for registration and a money order for the amount of the statutory fee.

23. Any work which has been registered under section 11, if reproduced in copies for sale or distribution, must be deposited a second time (two copies, accompanied by an application for registration and the statutory fee) in the same manner as is required in the case of works published in the first place.

Reproduction of unpublished work.

PUBLISHED WORKS.

DEPOSIT OF COPIES.

24. After publication of the work with the copyright notice inscribed, two *complete* copies of the best edition of the work (a) must be sent to the Copyright Office, with a proper application for registration correctly filled out and a money order for the amount of the legal fee.

Deposit of copies.

The statute requires that the deposit of the copyright work shall be made 'promptly', which has been defined as 'without unnecessary delay'. It is not essential, however, that the deposit be made on the very day of publication.

25. Published works are such as are printed or otherwise produced and 'placed on sale, sold, or publicly distributed'. Works intended for sale or general distribution must first be printed with the statutory form of copyright notice inscribed on every copy intended to be circulated.

Definition of 'published work'.

NOTICE OF COPYRIGHT.

26. The ordinary form of copyright notice for books, periodicals, dramatic and musical compositions is 'Copy-

Form of notice.

(a) By virtue of the Act of March 28, 1914 (see p. 77, *ante*), one complete copy only is required if the work is by an author who is a citizen or subject of a foreign state or nation, and has been published in a foreign country.

right, 19— (the year of publication), by A. B. (the name of the claimant).’ The name of the claimant printed in the notice should be the real name of a living person, or his trade name if he always uses one (but not a pseudonym or pen name), or the name of the firm or corporation claiming to own the copyright. The copyright notice should not be printed in the name of one person *for the benefit of another*. The beneficiary’s name should be printed in such cases.

Short
form of
notice.

27. In the case of maps, photographs, reproductions of works of art, prints or pictorial illustrations, works of art, models or designs for works of art, and plastic works of a scientific or technical character, the notice may consist of the letter *C*, enclosed within a circle, thus ©, accompanied with the initials, monogram, mark, or symbol of the copyright proprietor. But in such cases the name itself of the copyright proprietor must appear on some accessible portion of the work, or on the mount of the picture or map, or on the margin, back, or permanent base or pedestal of the work.

Notice
upon each
copy.

28. The prescribed notice must be affixed to each copy of the work published or offered for sale in the United States. But no notice is required in the case of foreign books printed abroad seeking *ad interim* protection in the United States, as provided in section 21 of the Copyright Act.

AMERICAN MANUFACTURE OF COPYRIGHT BOOKS.

Works
produced
in United
States.

29. The following works must be manufactured in the United States in order to secure copyright :

(a) All ‘ books ’ in the English language and books in any language by a citizen or domiciled resident of the United States must be printed from type set within the limits of the United States, either by hand or by the aid of any kind of typesetting machine, or from plates made within the limits of the United States from type set therein, or, if the text of such books be produced by lithographic process or photo-engraving process, then by a process wholly performed within the limits of the United States ;

and the printing of the text and binding of the book must be performed within the limits of the United States.

(b) All *illustrations* within a book produced by lithographic process or photo-engraving process and all *separate lithographs* or *photo-engravings* must be produced by lithographic or photo-engraving process wholly performed within the limits of the United States, except when the subjects represented in such illustrations in a book or such separate lithographs or photo-engravings 'are located in a foreign country and illustrate a scientific work or reproduce a work of art'.

30. Books by foreign authors in any language other than English are not required to be printed in the United States. Books by foreign authors.

In the case of books printed abroad in the English language an *ad interim* term of copyright of thirty days from registration made in the Copyright Office within thirty days after publication abroad may be secured ; but in order to extend the copyright to the full term of protection, an edition of the work must be published in the United States within the thirty days *ad interim* term, printed or produced within the limits of the United States as required in section 15 of the Copyright Act. Books printed abroad.

APPLICATION FOR REGISTRATION.

31. The application for copyright registration required to be sent with each work must state the following facts, without which no registration can be made : Application for registration.

(1) The *name* and address of the claimant of copyright.

(2) The name of the country of which the author of the work is a citizen or subject.

(3) The *title* of the work.

(4) The name and address of person to whom certificate is to be sent.

(5) In the case of works reproduced in copies for sale or publicly distributed, the actual date (year, month, and day) when the work was published.

32. In addition, it is desirable that the application should state for record the name of the author. If, how- Name of author.

Nation-
ality of
author.

ever, the work is published anonymously or under a pseudonym and it is not desired to place on record the real name of the author, this may be omitted. In the case of works made for hire, the employer may be given as the author. By the nationality of the author is meant citizenship, not race; a person naturalized in the United States should be described as a citizen. An author, a citizen of a foreign country having no copyright relations with the United States, may secure copyright in this country, if at the time of publication of his work he is domiciled in the United States. The fact of such domicile in the United States should be expressly stated in the application, including a statement of this place of domicile. Care should be taken that the title of the work, the name of the author, and the name of the copyright claimant should be correctly stated in the application, and that they should agree exactly with the same statements made in the work itself.

APPLICATION FORMS.

Applica-
tion
forms.

33. The Copyright Office has issued the following application forms, which will be furnished on request, and should be used when applying for copyright registration :

A1. New book printed and published for the first time in the United States ; also United States edition of English book.

A2. Book reprinted in the United States with new copyright matter.

A3. Book by foreign author in foreign language.

A4. *Ad interim* for 30 days. Book published abroad in the English language.

A5. Contribution to a newspaper or periodical.

B1. Periodical. For registration of single issue.

B2. Periodical. For use with trust fund.

C. Lecture, sermon, or address.

D1. Published dramatic composition.

D2. Dramatic composition not reproduced for sale.

D3. Published dramatico-musical composition.

D4. Unpublished dramatico-musical composition.

- E. New musical composition published first time.
- E1. Musical composition republished with new copyright matter.
- E2. Musical composition not reproduced for sale.
- F. Published map.
- G. Work of art (painting, drawing, or sculpture) ; or model or design for a work of art.
- II. Published drawing or plastic work of a scientific or technical character.
- I2. Unpublished drawing or plastic work of a scientific or technical character.
- J1. Photograph published for sale.
- J2. Photograph not reproduced for sale.
- K. Print or pictorial illustration.
- L1. Motion-picture photoplay reproduced for sale.
- L2. Motion-picture photoplay not reproduced for sale.
- M1. Motion picture, not a photoplay, reproduced for sale.
- M2. Motion picture, not a photoplay, not reproduced for sale.
- R1. Renewal of a copyright for 28 years.
- R2. Extension of a renewal copyright for 14 years.

AFFIDAVIT OF MANUFACTURE.

34. In the case of books by American authors and all books in the English language the application must be accompanied by an affidavit, showing the following facts : Affidavit for book.

(1) That the copies deposited have been printed from type set within the limits of the United States ; or from plates made within the limits of the United States from type set therein ; or if the text be produced by lithographic process or photo-engraving process, that such process was wholly performed within the limits of the United States, stating, in either case, the place and the establishment where such work was done.

(2) That the printing of the text has been performed within the limits of the United States, showing the place and the name of the establishment doing the work.

(3) That the binding of such book has been performed

within the limits of the United States, showing the place and the name of the establishment where the work was done. This can be omitted if the work is unbound.

(4) That the completion of the printing of said book was on a stated day, or that the book was published on a given date.

Date of publica-
tion.

Section 62 of the Copyright Act defines the date of publication as 'the earliest date when copies of the first authorized edition *were placed on sale, sold, or publicly distributed* by the proprietor of the copyright or under his authority'.

Affidavit
must be
under
seal.

35. The affidavit may be made before any officer authorized to administer oaths within the United States who can affix his official seal to the instrument.

Errors
by appli-
cants.

The applicant and the officer administering the oath for such affidavit are specially requested to make sure that the instrument is properly executed, so as to avoid the delay of having it returned for amendment. Experience shows that among the common errors made by applicants are the following :

Failure to write in the 'venue'—that is, the name of the county and State—and to make sure that the notary's statement agrees.

Reciting a corporation or partnership as affiant. Oaths can be taken only by individuals.

Failure to state in what capacity the affiant takes the oath, whether as claimant, agent of the claimant, or printer. Where a corporation or firm is the claimant, the affiant should swear as agent.

Failure to state the *exact date* of publication or completion of printing. The month alone is insufficient.

Failure to sign the affidavit. The signature should correspond exactly with the name of the affiant stated at the beginning. Corporation or firm names must not appear in this place.

Failure to obtain signature of the notary after swearing to the contents.

Failure to obtain the seal of the notary.

Swearing before an officer not authorized to act in the place stated in the venue.

Variance between names and dates as stated in the affidavit and the application.

The affidavit must never be made *before* publication has taken place.

36. The affidavit may be made by: (1) The person claiming the copyright; or (2) his duly authorized agent or representative residing in the United States; or (3) the printer who has printed the book.

By whom
affidavit
may be
made.

The person making the affidavit should state in which of the above-mentioned capacities he does so.

37. In the case of a foreign author applying for a book in a language other than English, no affidavit is required, as such books are not subject to the manufacturing clause.

Book in
foreign
language.

In the case of a foreign author applying for a book in the English language, the same affidavit must be made as in that of an American author, except where a book is deposited for *ad interim* protection under section 21. In such cases the affidavit must be filed when the *ad interim* copyright is sought to be extended to the full term.

The affidavit is only required for BOOKS.

PERIODICALS (FORM B).

38. Application should be made in the same manner as for books, depositing two copies, but no affidavit is required.

Periodicals.

Separate registration is necessary for each number of the periodical published with a notice of copyright, and can only be made after publication. It is not possible to register the title of the periodical in advance of publication.

CONTRIBUTIONS TO PERIODICALS (FORM A5).

39. If special registration is requested for any contribution to a periodical, *one* copy of the number of the periodical in which the contribution appears should be deposited promptly after publication.

Contributions to
periodicals.

The entire copy should be sent; sending a mere clipping or page containing the contribution does not comply with the statute.

The date of publication of a periodical is not necessarily the date stated on the title-page. The application should state the day on which the issue is 'first placed on sale, sold, or publicly distributed', which may be earlier or later than the date printed on the title-page.

AD INTERIM APPLICATIONS (FORM A4).

*Ad
interim
copyright.*

40. Where a book in the English language has been printed abroad, an *ad interim* copyright may be secured by depositing in the Copyright Office one complete copy of the foreign edition, with an application containing a request for the reservation and a money order for \$1. Such applications should state: (1) Name and nationality of the author; (2) Name, nationality, and address of the copyright claimant; (3) Exact date of original publication abroad.

The deposit must be made within thirty days from publication abroad. Whenever, within the thirty days' period of *ad interim* protection, an edition manufactured in the United States is published and two copies have thereafter been promptly deposited, the copyright claim therein may be registered the same as any other book (Form A1).

MAILING APPLICATIONS AND COPIES.

*Address
of mail
matter.*

41. All mail matter intended for the Copyright Office should be addressed to the 'Register of Copyrights, Library of Congress, Washington, D. C.' No letters dealing with copyright matters should be addressed to individuals in the office.

Copyright matter designed for deposit in the Copyright Office will be transmitted by the postmaster free of charge when requested. The postmaster will also, when requested, give a receipt for matter so delivered to him for transmission.

No franking label is issued by the Copyright Office for this purpose.

FEES.

42. The fee required to be paid for copyright registration is \$1, except that in case of photographs it is only 50 cents when no certificate of registration is desired. Copy-right fees.

All remittances to the Copyright Office should be sent by money order or bank draft. Postage stamps should not be sent for fees or postage. Checks cannot be accepted unless certified. Coin or currency enclosed in letter or packages if sent will be at the remitter's risk. Remittances.

Publishers may for their own convenience deposit in the Copyright Office a sum of money in advance against which each registration will be charged.

ASSIGNMENTS OF COPYRIGHT.

43. When a copyright has been assigned the instrument in writing signed by the proprietor of the copyright may be filed in this office for record within six calendar months after its execution without the limits of the United States or three calendar months within the United States. Assignments of copyright.

After having been recorded the original assignment will be returned to the sender with a sealed certificate of record attached. The assignment will be returned by registered mail, if the post-office registration fee (10 cents) is sent for that purpose.

44. The fee for recording and certifying an assignment is \$1 up to 300 words ; \$2 from 300 to 1,000 words ; and another dollar for each additional thousand words or fraction thereof over 300 words. Fee for recording assignment.

45. After the assignment has been duly recorded, the assignee may substitute his name for that of the assignor in the copyright notice on the work assigned. Such substitution or transfer of ownership will be indexed in this office upon request, at a cost of 10 cents for each work assigned. Name of assignee in claim.

NOTICE OF USER OF MUSICAL COMPOSITIONS.

46. Whenever the owner of the copyright in a musical composition uses such music in phonographs himself or permits anyone else to do so, he must send a notice of Notice of user of music.

such use by him or by any other person to the Copyright Office to be recorded (b).

Notice in
absence of
license. **47.** Whenever any person in the absence of a license intends to use a copyrighted musical composition upon the parts of instruments serving to reproduce the same mechanically, the act requires that he shall serve notice of such intention upon the copyright proprietor and must also send a duplicate of such notice to the Copyright Office.

APPLICATION FOR THE RENEWAL OR EXTENSION OF SUBSISTING COPYRIGHTS.

Renewals
and ex-
tensions. **48.** Application for the renewal or extension of a subsisting copyright (except copyright of a composite work) may be filed within one year prior to the expiration of the existing term by :

(1) The author of the work if still living ;

(2) The widow, widower, or children of the author if the author is not living ;

(3) The author's executor, if such author, widow, widower, or children be not living ;

(4) If the author, widow, widower, and children are all dead, and the author left no will, then the next of kin.

Renewal
for com-
posite
work. **49.** If the work be a composite work upon which copyright was originally secured by the proprietor thereof, then such proprietor is entitled to the privilege of renewal and extension.

Renewal
fee. **50.** The fee for the recording of the renewal claim is 50 cents. Application for the renewal or extension of copyright can not be recorded in the name of an assignee nor in that of any person not expressly mentioned in section 24 of the act.

(b) Presidential proclamations have been issued under section 1 (e), securing 'copyright controlling the parts of instruments serving to reproduce mechanically the musical work' in behalf of Belgium, Cuba, Germany, Great Britain, Hungary, Italy, Luxemburg, and Norway.

SEARCHES.

51. Upon application to the Register of Copyrights Searches. search of the records, indexes, or deposits will be made for such information as they may contain relative to copyright claims. Persons desiring searches to be made should state clearly the nature of the work, its title, the name of the claimant of copyright and probable date of entry ; in the case of an assignment, the name of the assignor or assignee or both, and the name of the copyright claimant and the title of the music referred to in case of notice of user.

The statutory fee for searches is 50 cents for each full hour of time consumed in making such search. Search fee.

RULES ADOPTED BY THE SUPREME COURT OF
THE UNITED STATES FOR PRACTICE AND
PROCEDURE UNDER SECTION 25 OF AN ACT
TO AMEND AND CONSOLIDATE THE ACTS RE-
SPECTING COPYRIGHT, APPROVED MARCH 4,
1909. TO GO INTO EFFECT JULY 1, 1909

1

THE existing rules of equity practice, so far as they may be applicable, shall be enforced in proceedings instituted under section twenty-five (25) of the Act of March fourth, nineteen hundred and nine, entitled 'An Act to amend and consolidate the acts respecting copyright'.

2

A copy of the alleged infringement of copyright, if actually made, and a copy of the work alleged to be infringed, should accompany the petition, or its absence be explained ; except in cases of alleged infringement by the public performance of dramatic and dramatico-musical compositions, the delivery of lectures, sermons, addresses, and so forth, the infringement of copyright upon sculptures and other similar works and in any case where it is not feasible.

3

Upon the institution of any action, suit, or proceeding, or at any time thereafter, and before the entry of final judgment or decree therein, the plaintiff or complainant, or his authorized agent or attorney, may file with the clerk of any court given jurisdiction under section 34 of the Act of March 4, 1909, an affidavit stating, upon the best of his knowledge, information, and belief, the number and location, as near as may be, of the alleged infringing copies, records, plates, moulds, matrices, &c., or other means for making the copies alleged to infringe the copyright, and the value of the same, and with such affidavit shall file with the clerk a bond executed by at least two sureties and approved by the court or a commissioner thereof.

4

Such bond shall bind the sureties in a specified sum, to be fixed by the court, but not less than twice the reasonable value of such infringing copies, plates, records, moulds, matrices, or other means for making such infringing copies, and be conditioned for the prompt prosecution of the action, suit or proceeding; for the return of said articles to the defendant, if they or any of them are adjudged not to be infringements, or if the action abates, or is discontinued before they are returned to the defendant; and for the payment to the defendant of any damages which the court may award to him against the plaintiff or complainant. Upon the filing of said affidavit and bond, and the approval of said bond, the clerk shall issue a writ directed to the marshal of the district where the said infringing copies, plates, records, moulds, matrices, &c., or other means of making such infringing copies shall be stated in said affidavit to be located, and generally to any marshal of the United States, directing the said marshal to forthwith seize and hold the same subject to the order of the court issuing said writ, or of the court of the district in which the seizure shall be made.

5

The marshal shall thereupon seize said articles or any smaller or larger part thereof he may then or thereafter find, using such force as may be reasonably necessary in the premises, and serve on the defendant a copy of the affidavit, writ, and bond by delivering the same to him personally, if he can be found within the district or if he cannot be found, to his agent, if any, or to the person from whose possession the articles are taken, or if the owner, agent, or such person cannot be found within the district by leaving said copy at the usual place of abode of such owner or agent, with a person of suitable age and discretion, or at the place where said articles are found, and shall make immediate return of such seizure, or attempted seizure, to the court. He shall also attach to said articles a tag or label stating the fact of such seizure and warning all persons from in any manner interfering therewith.

6

A marshal who has seized alleged infringing articles, shall retain them in his possession, keeping them in a secure place, subject to the order of the court.

7

Within three days after the articles are seized, and a copy of the affidavit, writ and bond are served as herein-before provided, the defendant shall serve upon the clerk a notice that he excepts to the amount of the penalty of the bond, or to the sureties of the plaintiff or complainant, or both, otherwise he shall be deemed to have waived all objection to the amount of the penalty of the bond and the sufficiency of the sureties thereon. If the court sustain the exceptions it may order a new bond to be executed by the plaintiff or complainant, or in default thereof within a time to be named by the court, the property to be returned to the defendant.

8

Within ten days after service of such notice, the attorney of the plaintiff or complainant shall serve upon the defendant or his attorney a notice of the justification of the sureties, and said sureties shall justify before the court or a judge thereof at the time therein stated.

9

The defendant, if he does not except to the amount of the penalty of the bond or the sufficiency of the sureties of the plaintiff or complainant, may make application to the court for the return to him of the articles seized, upon filing an affidavit stating all material facts and circumstances tending to show that the articles seized are not infringing copies, records, plates, moulds, matrices, or means for making the copies alleged to infringe the copyright.

10

Thereupon the court in its discretion, and after such hearing as it may direct, may order such return upon the filing by the defendant of a bond executed by at least two sureties, binding them in a specified sum to be fixed in the discretion of the court, and conditioned for the delivery of said specified articles to abide the order of the court. The plaintiff or complainant may require such sureties to justify within ten days of the filing of such bond.

11

Upon the granting of such application and the justification of the sureties on the bond, the marshal shall immediately deliver the articles seized to the defendant.

12

Any service required to be performed by any marshal may be performed by any deputy of such marshal.

13

For services in cases arising under this section, the marshal shall be entitled to the same fees as are allowed for similar services in other cases.

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Law
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Robertson, G.S.

Author

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Title

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